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HEARING  
SENATE RULES COMMITTEE  
STATE OF CALIFORNIA  
*Legislature*

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WEDNESDAY, FEBRUARY 18, 1998  
1:35 P.M.



1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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7 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 WEDNESDAY, FEBRUARY 18, 1998

17 1:35 P.M.

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25 Reported by

26  
27 Evelyn J. Mizak  
28 Shorthand Reporter



INDEXPage

Proceedings ..... 1

Governor's Appointees:

CLARENCE A. TERHUNE, Director  
California Department of Corrections ..... 1

## Statements by CHAIRMAN BURTON re:

Resolved Issues ..... 1

## Questions by CHAIRMAN BURTON re:

Complaints Need to Reach Top  
Management ..... 1

## Questions by SENATOR HUGHES re:

Most Serious Problems and Plans for  
Addressing Them ..... 2

Treatment of People Program ..... 3

Implementation of Classes in Ethics and  
Sexual Harrassment ..... 5

Incentives to Employees for Advanced  
Education ..... 6

Next Three Institutions for Focus ..... 7

Willingness to Give Committee Update  
on Employee Programs in Six Months ..... 7

## Questions by SENATOR AYALA re:

Resolution of Issues Raised by  
LT. BARNES ..... 8

## Questions by CHAIRMAN BURTON re:

Types of Parole Revocations ..... 10

Status of Lawsuits between Department  
and Cities ..... 10

Dental Care for Women Inmates ..... 10

Contract Situation regarding Packages  
to Inmates ..... 10





1	Motion to Confirm .....	11
2	Committee Action .....	11
3	ANTHONY M. VITTI, Member	
4	Trustees of the California State University .....	12
5	Motion to Confirm .....	12
6	Committee Action .....	12
7	WILLIAM J. KEESE, Member	
8	State Energy Resources Conservation and	
9	Development Commission .....	13
10	Background and Experience .....	13
11	Questions by CHAIRMAN BURTON re:	
12	Progress of Electrical Deregulation .....	13
13	Role of Commission .....	13
14	Shipment of Spent Nuclear Fuel	
15	Rods through California .....	14
16	Questions by SENATOR AYALA re:	
17	Dramatic Drop in Gasoline Prices .....	15
18	Motion to Confirm .....	17
19	Committee Action .....	17
20	MANUEL E. ORTEGA, Member	
21	Board of Prison Terms .....	17
22	Background and Experience .....	18
23	Questions by CHAIRMAN BURTON re:	
24	Technical Violations vs. Crimes .....	18
25	Variations in Revocations .....	19
26	Reasons for Disparity .....	20
27	Battered Woman Syndrome .....	22
28	Preparation of Prisoners for Parole .....	24



Questions by SENATOR AYALA re:

Large Percentage of Parole Revocations .....	26
Parolees Who Have Absconded .....	26
Suggestions to Improve Situation .....	27
Motion to Confirm .....	28
Committee Action .....	28

VINCENT C. PALMER, Member

Youthful Offender Parole Board .....	28
Background and Experience .....	29

Questions by CHAIRMAN BURTON re:

Priorities Needed to Parole Wards .....	29
Coordination with Youth Authority .....	30

Questions by SENATOR HUGHES re:

Early Release of Wards to Hold Down Population .....	32
Motion to Confirm .....	33
Committee Action .....	34
Termination of Proceedings .....	34
Certificate of Reporter .....	35





4 --ooOoo--

5 CHAIRMAN BURTON: Governor's appointees for vote  
6 only, unless there's some questions of Members of the  
7 Committee.

8 SENATOR HUGHES: Yes.

9 CHAIRMAN BURTON: Mr. Terhune, please.

10 Now, it's my understanding that there was a  
11 meeting on the issues raised by Lieutenant Barnes with  
12 Mr. Terhune, that some issues were resolved. Some things, such  
13 as firing a warden, were not agreed upon.

14 That now that the court settlement's over,  
15 there's going to be an investigation; that there's commitment  
16 from you that there's no reprisals?

17 MR. TERHUNE: Yes, sir.

18 CHAIRMAN BURTON: I would say, and then I'll  
19 yield to Members if they have questions, is the concern that  
20 came through to me is, some how, this thing got out of hand.  
21 And that happened maybe because it's the policy of the  
22 Department, or maybe it just happened. But a subordinate got  
23 word of the problem and was meeting, and it never got up the  
24 line for somebody with what I would consider authority to deal  
25 with it. Then here we were last week, talking about stuff that  
26 should have been resolved.

27 Is that standard operating procedure, that nobody  
28 on top ever hears about something? This seemed to be a little  
29 bit, the complaints were more than some minor thing that I think  
30 an associate warden could deal with. Whether there was validity

1 to them is another matter.

2 MR. TERHUNE: Procedure will be in place.  
3 Something of that nature will certainly be brought to my  
4 attention.

5 Now, staff may still continue to have dialogue,  
6 but I'll be constantly posted on what transpires.

7 CHAIRMAN BURTON: I think that you or somebody in  
8 authority should be made aware, there should be a paper trail so  
9 that if something happens, you come in, you can't say, I didn't  
10 know, if you did. Or if you didn't know, it's because somebody  
11 screwed up.

12 MR. TERHUNE: Yes, sir.

13 CHAIRMAN BURTON: Senator Hughes.

14 SENATOR HUGHES: I had occasion to meet with  
15 Mr. Terhune earlier this morning, and there were several issues  
16 that I discussed with him. I'd like to briefly go over them  
17 with him so I can have his responses as part of the record.

18 First of all, we all know that there's some very  
19 serious staff problems at our prisons. I'd like for you to tell  
20 me, in order of priority, what you think the most serious  
21 problems are in our prisons and how you plan on addressing them?

22 MR. TERHUNE: First of all, as we discussed, the  
23 biggest problem, and I had indicated this to the Committee last  
24 time, that the degree of crowding in the prisons is reaching the  
25 point that's become very volatile.

26 That'll be addressed by the Legislature this  
27 year, and there'll be considerable dialogue on that.

28 The next issue that concerns me is the amount of

1 unscheduled activities, lack of program for inmates. About  
2 20,000 have no program. Again, we'll be talking about that as  
3 time goes on.

4 Standardization of the use of lethal force and  
5 less than lethal force is an issue that I want to have very  
6 concretely standardized throughout the Department.

7 The next issue, I think, that's probably of  
8 significance to me, and one we'll probably talk about some more  
9 is, making sure that from top to bottom in the organization,  
10 there is a concept of treating people with dignity and respect.  
11 That doesn't mean not holding them accountable for their acts,  
12 but making sure that there is a system whereby if somebody is  
13 not following policy, or acting outside of policy, that there be  
14 timely, thorough investigations. We're working that. Again,  
15 we'll be talking during the legislative process about that.

16 We are in the process of setting up a good system  
17 for dealing with internal affairs, to make sure that those  
18 people who are not guilty of an offense are cleared very clearly  
19 and promptly. Those that need to be held accountable will be  
20 held accountable.

21 SENATOR HUGHES: I understand that your  
22 predecessor had a Treatment of People Program, and as we  
23 discussed it early on, you had indicated that there were these  
24 documents that represented this program.

25 But I was interested in seeing that we had some  
26 implementation. Could you briefly describe what the Treatment  
27 of People Program is?

28 MR. TERHUNE: The Treatment of People Program is



one that was started, I guess, about four years ago. It was a concept of basically making sure all the way through the management system that people are treated with dignity and respect, and that there was proper signage all through the institutions. I think if you go out and visit, you'll see those visiting halls and conference rooms. Entrance into the institutions, you'll see the signage that goes with that particular program.

Coupled with that, and the one that's probably getting the most activity right now, is the ethics component. To me, this is directed primarily at helping break the so-called code of silence, and to open up communications between various members of the staff within the prisons. That's being done. It's being implemented in the academy and supervisory training. It's being done in terms of all our lesson plans to build in the concept of ethics, and responsible and ethical treatment of others.

Also related to our conversation this morning, I still -- based on my past experience, you can have a lot of paper. You need it out there. You need policies. You need procedures. You need training plans, lesson plans, all these things.

But nothing is more important than the top management, whether it be the warden, the Director, the Deputy Directors, out and about in the prisons, and demonstrating through their own actions how people should be treating other people.

Frankly, I commit myself to this group that my

1 past experience has been that I'm out and about, and go to the  
2 prisons, and spend time there, talking with both inmates and  
3 staff. And that I expect my managers to do that. And that, to  
4 me, is where you bring about the change, when you demonstrate to  
5 people that this is what you believe in. Here's what your  
6 values are, and you put your priorities where your time is.

7               SENATOR HUGHES: This is an agency that we have  
8 had more complaints about racism and sexual harassment and  
9 ethics, perhaps, than any other agency in government. But also  
10 it's to be noted that they are the largest, and so consequently,  
11 we would expect them to have largest number of complaints.

12               I indicated to you earlier today that we have  
13 ethics classes and sexual harassment classes for Legislators.

14               Do you have any such plans for the  
15 implementation for anything like that of your prison staff?

16               MR. TERHUNE: Based our conversation, I'll  
17 probably be over next week to borrow your lesson plans. I  
18 frankly was surprised at --

19               SENATOR HUGHES: Don't borrow our problems.

20                               [Laughter.]

21               MR. TERHUNE: No, we have enough problems without  
22 borrowing yours.

23               But I would like to borrow and take a look at the  
24 program. Frankly, you should be applauded for what you're  
25 doing. You're ahead of us on that, you really are.

26               SENATOR HUGHES: Do you offer any incentives for  
27 employees to take college courses? Do you plan any incentives  
28 in the future for courses of things in Internal Affairs, or



1   whathave you?

2                   MR. TERHUNE: One of the big incentives is that  
3   when you recognize line staff for when they further their  
4   education, get college credits, and you make that a part of the  
5   examining process, this is one form of recognition, one form of  
6   demonstrating that achievement in this area is important.

7                   We have this year, and I do have my finger prints  
8   to some extent on this particular option, we are paying  
9   incentive pay now for line officers as part of the contract that  
10  further their education. This was worked out cooperatively with  
11  our biggest union, California Correctional Peace Officers  
12  Association.

13                   We tried to model and modify work schedules to  
14  the extent possible so that people can go to school on their off  
15  hours, and we are exploring right now the possibility of video  
16  networking college courses into our institutions so staff can be  
17  furthering their education right at the institution.

18                   Got a long ways to go on that, but the technology  
19  is there, and I think we should be able to pull that off in the  
20  next year.

21                   SENATOR HUGHES: Are you openly committing to do  
22  something specifically in this area in the not too distant  
23  future?

24                   MR. TERHUNE: Yes.

25                   SENATOR HUGHES: Thank you very much.

26                   Last but not least, would you please name the  
27  three institutions that is your area of focus at this time,  
28  where you plan on making personal visits to see that situations

1 there are improved?

2 MR. TERHUNE: I think I mentioned at the last  
3 hearing, I made my first visits to Pelican Bay and to Corcoran.  
4 I'm pleased with what I saw there.

5 My concern now has moved a bit to Sacramento --  
6 State Prison Sacramento, probably Salinas Valley, and High  
7 Desert State Prison. Those are the three that I think need some  
8 attention.

9 SENATOR HUGHES: Would you be willing to give the  
10 Members of this Committee an update in about six months about  
11 employees programs that you have instituted during your  
12 administration, and what the progress is?

13 MR. TERHUNE: Yes, I would. You've got a  
14 guarantee. I'll come back in.

15 SENATOR HUGHES: Thank you.

16 MR. TERHUNE: If you'll have me.

17 CHAIRMAN BURTON: Senator Ayala.

18 SENATOR AYALA: Mr. Chairman, we had some  
19 questions for Mr. Terhune last week, and then we have a request  
20 by the lieutenant who was involved there opposing your  
21 confirmation.

22 First of all, let me say that I visit prisons up  
23 and down the state now, San Quentin, the New Folsom, as Chairman  
24 of the Select Committee on Prison Management. And I find that,  
25 by and large, the Adult Authority is better handled than the  
26 Youth Authority.

27 The Youth Authority is a big mess, as far as I'm.  
28 concerned. We're not going to correct it today, or tomorrow, or

1 the day after. It's been getting that way for many years. It's  
2 going to take time to correct it. We're not going to do it by  
3 acting today, or tomorrow, or the day after. Let me say that at  
4 the beginning.

5 But the lieutenant, you resolved the issue with  
6 the lieutenant? You met with him during the week, I  
7 understand.

8 MR. TERHUNE: I met with him. I would not dare  
9 suggest that it's resolved.

10 I tried and made some commitments, some  
11 agreements. I didn't ask that there be any commitment that the  
12 matter was settled.

13 SENATOR AYALA: He suggested or requested four  
14 issues, of which I would agree and some I wouldn't, if I were  
15 you. Number one, he suggests that we fire Warden Madding.

16 MR. TERHUNE: I definitely said I would not,  
17 unless I was convinced --

18 SENATOR AYALA: I don't think one individual  
19 should be able to force a warden out, not when the Mexican  
20 American Correctional Officers Association and the Black  
21 Correctional Association support your nomination.

22 I think that you certainly should have hard look  
23 at that and make sure that that's corrected. But I'm not going  
24 to support him on firing at random who he wants to be fired. I  
25 don't think he should be allowed to do that.

26 Number two, the settlement of the \$10,500  
27 settlement has been resolved by removing the attorney's name  
28 from it.



1           Then the attorney fees, I understand there's  
2 about one \$100,000 of fees. How did you address that issue?

3           MR. TERHUNE: On that issue, I indicated, you  
4 present your arguments, you take your best shot with the judge.  
5 We'll take our best shot, and the judge, who is very familiar  
6 with the case, once he rules, that's it, one flop.

7           SENATOR AYALA: The courts have ruled in his  
8 favor. The courts have ruled.

9           Are we pursuing that any further.

10          MR. TERHUNE: No.

11          SENATOR AYALA: That's settled.

12          MR. TERHUNE: That's settled. That was settled  
13 before the hearing.

14          SENATOR AYALA: Then the next one was a 45-day  
15 stress leave, requested compensation for stress.

16          You know what I think about stress. That's a cop  
17 out in most cases, and I wouldn't support that at all, no way.

18          Sure, there are legitimate stress cases, but  
19 everyone, when they get in trouble, they use stress as a  
20 problem. And I don't believe in that. So, unless the doctors  
21 or someone who is really an authority on the subject matter  
22 requests or allows that to happen, I wouldn't support giving  
23 anybody compensation for stress.

24          Everybody's stressed. We're stressed here now.  
25 That's a cop out in most cases, and I don't support it.

26          But the four issues have been resolved in your  
27 opinion, and you're not going to make him happy completely, but  
28 we want a commitment from you. I think you said you would

1 pursue that further to make sure that what he had concerns about  
2 are taken care of.

3 MR. TERHUNE: Yes.

4 There was only one other point. I indicated that  
5 I'd ordered the investigation prior to the hearing the other  
6 day, and that the investigators will be done by October --  
7 excuse me, February the 24th.

8 SENATOR AYALA: You were investigating this case  
9 until it went to court. Then you dropped the investigation.

10 MR. TERHUNE: Right.

11 SENATOR AYALA: Now that the court has settled,  
12 you picked up the investigation again?

13 MR. TERHUNE: Right.

14 SENATOR AYALA: Thank you.

15 CHAIRMAN BURTON: Just a couple. These are  
16 questions, but I don't want you to answer them here. We'll get  
17 them, because we want them in writing, and they're some of the  
18 ones that we discussed last week.

19 The one dealing with parole revocations,  
20 technical or what? What was the offense that got them back in  
21 jail? And what was the offense that they were originally in for  
22 before they went out?

23 The status of the lawsuits with the Department  
24 and the cities.

25 The dental care issue for women inmates.

26 The thing about packages. How they're selected,  
27 what's the contract situation? What's the margin of profit?

28 Then something even like, you know, the birthday



1 cake type issue, if possible. I'm sure they x-ray for bombs, so  
2 they could probably x-ray for something there.

3 Then you delved also, and we have on the record,  
4 that you're going to make sure that when something happens that  
5 look like it could turn into an important beef, that you're  
6 going to know about it, or one of your assistants. And you  
7 would probably be better off, at least at the beginning, knowing  
8 about too many beefs than not enough.

9 So, we'll have the staff prepare a written letter  
10 to you over my signature about the questions that you were going  
11 to look into, and given what you had to do last week, I doubt if  
12 you have the answer to that.

13 So, moved by Senator Ayala.

14 SENATOR AYALA: I'll move the confirmation.

15 CHAIRMAN BURTON: Call the roll.

16 SECRETARY WEBB: Senator Ayala.

17 SENATOR AYALA: Aye.

18 SECRETARY WEBB: Ayala Aye. Senator Brulte.

19 SENATOR BRULTE: Aye.

20 SECRETARY WEBB: Brulte Aye. Senator Hughes.

21 SENATOR HUGHES: Aye.

22 SECRETARY WEBB: Hughes Aye. Senator Lewis.

23 SENATOR LEWIS: Aye.

24 SECRETARY WEBB: Lewis Aye. Senator Burton.

25 CHAIRMAN BURTON: Aye.

26 SECRETARY WEBB: Burton Aye. Five to zero.

27 CHAIRMAN BURTON: Thank you, sir.

28 MR. TERHUNE: Thank you.

CHAIRMAN BURTON: Congratulations.

Governor's appointees appearing today, William J. Keese. Come forward, be sworn.

I'm sorry. Also for vote only today, who didn't appear, Anthony Vitti, Trustee of CSU. He was here earlier. I believe that the people who had a problem with him worked it out.

SENATOR LEWIS: Move.

CHAIRMAN BURTON: Moved by Senator Lewis. Call the roll.

SECRETARY WEBB: Senator Ayala.

SENATOR AYALA: Aye.

SECRETARY WEBB: Ayala Aye. Senator Brulte.

SENATOR BRULTE: Aye.

SECRETARY WEBB: Brulte Aye. Senator Hughes.

SENATOR HUGHES: Aye.

SECRETARY WEBB: Hughes Aye. Senator Lewis.

SENATOR LEWIS: Aye.

SECRETARY WEBB: Lewis Aye. Senator Burton.

CHAIRMAN BURTON: Aye.

SECRETARY WEBB: Burton Aye. Five to zero.

CHAIRMAN BURTON: Mr. Keese was appointed member of the Energy Resources Conservation and Development Commission, effective April 1, replacing Sally Rackow, an old constit of mine, who resigned.

I think everyone here knows Bill.

You want to make a brief statement, then if there's any questions.

1 MR. KEESE: Mr. Chairman, I would just say I was  
2 appointed to the public member post. I happen to be an  
3 attorney. We have an attorney on the Board.

4 I happen to have some experience in the energy  
5 field, having worked in the geothermal area and the petroleum  
6 area, and spent 12 years running and working for the solar  
7 energy industry.

8 This is my first stint at government service, and  
9 I'm pleased that the Governor chose to name me as Chairman after  
10 his appointment.

11 Happy to answer any questions.

12 CHAIRMAN BURTON: Do you have any viewpoint at  
13 all about how electrical dereg. is pursuing or going?

14 MR. KEESE: Having had an hour-and-a-half meeting  
15 this morning in the Governor's office, and with the Public  
16 Utilities Commission, who we meet with now-a-days on a very  
17 friendly basis about every three weeks, it will start on  
18 March 31st. It will start on a day forward basis.

19 There are now 13 parameters. That may slide  
20 somewhat in the event the testing does not prove out.

21 Testing will start on March 1st, and we basically  
22 need a seven-day forward test without any total failures.

23 The application to FIRC will take place by March  
24 15th, and that gives them the 15 days to approve the start on  
25 March 31st.

26 CHAIRMAN BURTON: Your role's really just what,  
27 oversight and comment?

28 MR. KEESE: We do not have a control. The Energy

1 Commission has never been a command and control. We've been a  
2 policy and planning body.

3 We do have -- we do power plant siting. In this  
4 area we have two major programs. We were given a pot of money  
5 by the Legislature, \$540 million, to allocate to renewable  
6 energy sources to bring them into competitiveness by the year  
7 2002.

8 And because the amount of the research and  
9 development being done by the utilities had declined from \$150  
10 million three years ago, to \$60 million last year, and looked  
11 like it would be zero this year, the legislation ordered the  
12 utilities to give us a pot of \$62 million a year. And effective  
13 January 1st, we are allocating that \$62 million to research and  
14 development in the electrical energy area.

15 CHAIRMAN BURTON: Do you have a viewpoint on the  
16 shipment of, shall we say, spent nuclear fuel rods through the  
17 state?

18 MR. KEESE: We have an institutional position.  
19 And I would inform you that I live on the Feather River, in Gray  
20 Eagle, California, and listen to the trains go by my house.

21 We had tried to convince the federal government  
22 very actively that this was not the most prudent decision that  
23 they were making, to bring the waste into Concord. The Governor  
24 has supported that strongly. We have had very strong bipartisan  
25 support from the entire Legislature and our Congressional  
26 delegation.

27 But it was a Department of Energy decision that  
28 is not subject to approval, and they made it, and they decided



1 to move forward.

2 CHAIRMAN BURTON: There's little, if anything,  
3 you can do about it except say, don't?

4 MR. KEESE: We are making sure that all the  
5 preparations are in place to handle any emergency that might  
6 occur.

7 CHAIRMAN BURTON: All that your agency can do, or  
8 commission, is to respond to a problem?

9 MR. KEESE: And make it as safe as it possibly  
10 can be.

11 CHAIRMAN BURTON: Can you make it safer, or can  
12 you just respond if something happens?

13 MR. KEESE: Well, the casks they're shipping it  
14 in are quite -- it would take practically a nuclear bomb to blow  
15 them open.

16 But what the concern is, an accident that might  
17 happen as they are being shipped. And we have worked out with  
18 the federal government, for instance, they wanted to take it  
19 over the Donner Summit this month. And we suggested there just  
20 might be some snow there, and they might want to delay their  
21 activity a little. They decided to delay it until later in the  
22 spring, and they're going to use the Feather River route.

23 CHAIRMAN BURTON: Other Members? Senator Ayala.

24 SENATOR AYALA: I just have a short question.

25 In the last ten days, gasoline prices have  
26 dropped dramatically in my district to something like 99 cents a  
27 gallon.

28 Why is that? Why do you think that's happening?



1 What controls that?

2 MR. KEESE: As usual is true, the market controls  
3 this. And the very interesting market dynamic that is  
4 controlling it is, we happened to have a larger than usual  
5 supply of refined product in California and pretty much across  
6 the country.

7 With the financial turmoil in the Southeast, the  
8 orders for petroleum in the Southeastern countries have declined  
9 dramatically, which leaves a glut of oil on the world market,  
10 and the world price of petroleum has come down.

11 Those two factors have contributed to the decline  
12 in price.

13 SENATOR AYALA: Can you explain why this is  
14 happening in Southern California but it hasn't hit us up north  
15 yet?

16 MR. KEESE: I don't have the exact numbers. The  
17 prices have come down in the north. Ninety-nine cents is not a  
18 universal price in the south. It's a very nice price that  
19 people like to put up when they have the opportunity to do it  
20 and get some free advertising for going to 99 cents. The price  
21 is probably a nickel or seven cents higher in the south than in  
22 the north.

23 SENATOR AYALA: I always knew they were ahead of  
24 Northern California, but not by that much.

25 MR. KEESE: No, it's not that much. In general,  
26 the average price is not that much of a gap.

27 SENATOR AYALA: Do you think it'll hold for a  
28 while.

1 MR. KEESE: I would venture to say that the north  
2 is usually penny or two higher than the south. That's about  
3 where it runs.

4 CHAIRMAN BURTON: It's more than a penny.

5 What's the pleasure of the Committee?

6 SENATOR BRULTE: Move.

7 CHAIRMAN BURTON: Any opposition? Any support?

8 Moved by Senator Brulte. Call the roll.

9 SECRETARY WEBB: Senator Ayala.

10 SENATOR AYALA: Aye.

11 SECRETARY WEBB: Ayala Aye. Senator Brulte.

12 SENATOR BRULTE: Aye.

13 SECRETARY WEBB: Brulte Aye. Senator Hughes.

14 SENATOR HUGHES: Aye.

15 SECRETARY WEBB: Hughes Aye. Senator Lewis.

16 SENATOR LEWIS: Aye.

17 SECRETARY WEBB: Lewis Aye. Senator Burton.

18 CHAIRMAN BURTON: Aye.

19 SECRETARY WEBB: Burton Aye. Five to zero.

20 CHAIRMAN BURTON: Congratulations, Bill.

21 MR. KEESE: Thank you.

22 CHAIRMAN BURTON: Manuel Ortega, member of the  
23 Board of Prison Terms. Mr. Ortega, please.

24 MR. ORTEGA: Yes, Senator.

25 SENATOR LEWIS: Do you have an opening statement?

26 MR. ORTEGA: Yes. I just want to thank everyone  
27 for allowing me to come before you.

28 Just to give you a brief history of my career,

1 I'm a native Californian and spent 30 years in law enforcement.  
2 The first four years of that career was spent in the City of  
3 Garden Grove. Then I moved on to the City of Orange, where I  
4 served for 16 years. Eventually became the Police Chief in the  
5 City of Bell, which is in southeast Los Angeles County. I was  
6 Chief of Police there from 1988 to 1990, and then came back to  
7 the City of Placentia as their Police Chief in 1990, and retired  
8 from there in 1997.

9 And I've been retired for about a year and have  
10 been married for 28 years, have two children. And have enjoyed  
11 this job that I've been doing for the last ten months  
12 immensely.

13 I'm here to answer any questions Senator or any  
14 of the Senators may have regarding my confirmation.

15 CHAIRMAN BURTON: Some of the questions that we  
16 had, again, it's the problems of over crowding in the prisons,  
17 so it's a question again, and we'll probably address this to the  
18 Board as well, but, you know, some of the technical violations  
19 versus the crimes. And we'll probably send you or send the  
20 Chair of the Commission a thing, but basically, what are the  
21 type of technical violation or violations, technical or a crime,  
22 and then what was the underlying crime that was person was in  
23 prison for, got released for, and then misses an appointment,  
24 goes dirty in a bottle, or whatever, and could be back at  
25 tremendous taxpayers' expense, although, basically, they, you  
26 know, could well not be a threat to public safety.

27 So we'd be very interested in getting, you know,  
28 getting that information.



1           We'd also be interested in finding out whether or  
2 not the parole agents, when you have like really a high risk  
3 person who's floating around, you know, whether or not there's a  
4 warning bell. Like, they miss the first meeting with the  
5 officer or the agent, then, like, whether that was something  
6 unavoidable, whether it was screw-up, or whether the person's  
7 all of a sudden off on, as we used to say, a frolic of their  
8 own.

9           And then, the reasons, if any, and I think this  
10 was raised by Senator Ayala before, last week with another  
11 member of the Board, there seems to be a discrepancy, or just a  
12 variation in certain areas where people gets violated maybe for  
13 nothing, and people get violated for something. That there's  
14 just a different variation, I think, in revocations. And I  
15 guess whether you had an idea why. I guess some people see  
16 something one way, and some the other.

17           MR. ORTEGA: Yes, Senator. I think that that's  
18 -- and I remember when Mr. Giaquinto was asked last week, I  
19 think he give basically the same answer, is that all of us are  
20 just a little bit different. What may tweak one individual may  
21 not necessarily be enough to stimulate another one to revoke.

22           I think one of the things that is critical for  
23 the Committee to know simply is that before anyone is revoked,  
24 it has to go through review process with a deputy commissioner.  
25 That's not us, obviously. That's the deputy commissioners at  
26 work.

27           So, I would think that it would be rare an  
28 instance when a person would be revoked on a simple one

violation. As you indicated, maybe has a urinalysis that comes back in a negative, it would be unlikely that the parole agent would be able to revoke that individual simply on that one case. He may recommend that.

But again, it goes through a review process with one of our deputy commissioners, and that deputy commissioner then has it within his power or her power to either say, give me all the facts, let me look at this report, and either say, all right, I'm going to go along with the revocation. Or, I don't think you have enough there to revoke; I think you should find some other alternative to putting the person back in prison.

But again, I wish I could answer more succinctly.

CHAIRMAN BURTON: I understand that. So basically, the agent can only recommend?

MR. ORTEGA: That is correct. The agent will make the recommendation.

CHAIRMAN BURTON: How would that account for the disparity, if that's the right word, that certain areas seem to have a higher level of revocation if, really, they could all be decided by the same person. I mean, somehow, depending on the lottery of what the hearing was --

MR. ORTEGA: Well, I think also, Senator, what one must understand is that we have many deputy commissioners. Each commissioner -- again, the deputy commissioner will be a little bit different than the other. It's not always the same deputy commissioner that hear those --

CHAIRMAN BURTON: Are the deputy commissioners within locales, or are they all located centrally up here?



1 MR. ORTEGA: No, we have them in the different  
2 regions of the state.

3 CHAIRMAN BURTON: So, it could be as much the  
4 deputy commissioner as it was the parole agent.

5 MR. ORTEGA: It could be a combination of both;  
6 that's correct.

7 CHAIRMAN BURTON: Does the Board of Prison Terms  
8 do anything about, let's use the bad urinalysis, of directing  
9 people into, you know, drug treatment programs, twelve-step  
10 programs, or alternative punishment programs, as opposed to the  
11 high cost of pulling them back to prison? Do you use much  
12 imagination, or are you just kind of stuck with either let them  
13 go or pull them in?

14 MR. ORTEGA: That's difficult for me to answer,  
15 Senator. I'll tell you why, because we really don't get  
16 involved in that end of it.

17 Normally that decision is left, again, to the  
18 parole agents and to CDC to make that determination of any  
19 alternative programs that may be available for the prisoner.

20 CHAIRMAN BURTON: If the parole agent doesn't  
21 revoke but recommends, we can't have it both ways. Then it's  
22 that deputy commissioner who, under some kind of policy  
23 direction, you know, with some flexibility, I guess, from the  
24 Board, could say, again, taking a look at the underlying offense  
25 where something really violent is against somebody that got in  
26 bar brawl and hit somebody in the head with a beer bottle, which  
27 becomes a violent thing even though the person might not have  
28 been, like, the type that lays in wait for people, hits them on

1 the head and takes their money, that to see if there are ways to  
2 use punishment options to get people in some kind of twelve-step  
3 or drug things. Because one, it would probably be better  
4 policy, and two, it would sure lessen the over crowded of the  
5 institutions.

6 And I would think that that's one of the things  
7 that the Board ought to give some thought to, is within whatever  
8 authority you have, see if you could come up to encourage that  
9 when appropriate. You know, appropriate's in the eye of the  
10 beholder, but I think if you send out that message where they  
11 look at the underlying offense, they look at the revocation  
12 offense, and you figure do we want to spend all this money  
13 bringing somebody back, or really could we do something else  
14 with stronger supervision. So, I would encourage that.

15 Back to the women prisoners and the battered  
16 woman syndrome, is that taken into consideration much with these  
17 women? That, if they were tried today, they would probably get  
18 lesser penalties or conceivably even acquittals because at the  
19 time they did what they did, there was no defense or no  
20 consideration?

21 MR. ORTEGA: I think so. I think I'd have to say  
22 yes to that, Senator.

23 I know that recently we had a case of a young  
24 woman who was convicted of a second degree murder. And on her  
25 initial parole consideration, she was given a one-year denial.  
26 But on her first subsequent hearing, she was given a parole  
27 release date.

28 One of the reasons why is that the commissioners

1 that conducted that hearing looked at the battered woman  
2 syndrome, and that it was definitely in evidence at that  
3 particular time on that particular case. And using that as one  
4 of the reasons, they gave her a parole release date.

5 That law, as you know, Senator, and I mean, as  
6 the other Senators, I'm sure, are well aware, has come into  
7 being just since 1991 or 1992.

8 CHAIRMAN BURTON: Yes, it's fairly recent.

9 MR. ORTEGA: So, we're kind of feeling our way  
10 through with those cases.

11 But I do believe, and I know that I, for one, as  
12 I'm conducting these hearings in the institutions where the  
13 women are housed, look at that as a side issue, and look at that  
14 as an important part of that issue. We have it within our power  
15 to then make recommendations that an investigation be done on  
16 that.

17 CHAIRMAN BURTON: Is it a policy of the Board,  
18 that you know of, as opposed to your own policy, that they do  
19 with what's basically not a handful, but it's not much more than  
20 two handful of women, to look at that issue in consideration of  
21 whatever?

22 As I said as the last hearing, I don't know if  
23 you were here, but when we went down to visit the Frontera,  
24 there was only one person that even had any beef, and that was  
25 like once with some marijuana and once drunk. And the rest of  
26 them, like, not even parking tickets.

27 Not that, you know, they took somebody's life,  
28 which is not a good thing, but, you know, it almost was akin to



1 somebody breaking into your house.

2 One other thing, is there anything you could do,  
3 or is this basically in the Department, as to what you can do to  
4 prepare prisoners to be -- I guess for want of a better word --  
5 successful as parolees? I guess all you could do is really  
6 recommend programs, if you had it in your mind, to CDC?

7 Do you see anything that, you say, if this person  
8 would have gotten, you know, this in prison, or before they got  
9 out, or they had, you know, two hours of pretty strong  
10 counseling before they made parole that they might have figured  
11 it out and kept away from bad company and realized they  
12 shouldn't drink.

13 But really, are people trained, or informed, or  
14 had it drilled into them that like when they go on parole, it's  
15 kind of a narrow thing? They could find if they do something,  
16 not even bad but stupid, they could find themselves right back  
17 where they were?

18 MR. ORTEGA: Again, I must address myself to  
19 primarily the life hearings. Each lifer that comes up in most  
20 cases has accomplished several things before he even gets  
21 considered for a date. Normally they have received an  
22 education. They have acquired a vocation, and I have seen  
23 inmates that have come out with vocational certificates in  
24 dental technicians, as x-ray technicians, with job offers, bona  
25 fide job offers that will pay them very well, that would never  
26 ever require them to recidivate. But that's with the lifers.

27 With the determinate sentencing inmates, many  
28 times -- and again, this is my opinion, Senator -- but what I

1 think happens is, an inmate realizes that he has two to three  
2 years to do on a sentence, and knows that there's nothing we can  
3 do to him if he chooses not to program.

4 And then again, because there are so many of  
5 them, maybe we don't have enough programs to get them into.  
6 Maybe some of them want to do some of the things, get into a  
7 twelve-step program, as you indicated, or get into some type of  
8 self-help therapy in the area of domestic violence. The  
9 programs sometimes just aren't available to them. So, they're  
10 released without that training.

11 But again, going back to the lifers, those  
12 inmates that we hear on a daily basis, they have tremendous  
13 opportunity to do those programs. Many of them do those and  
14 come out. Our recidivism rate for a lifer inmate is probably in  
15 the area of ten percent.

16 CHAIRMAN BURTON: I have heard that the lowest  
17 recidivism rate, unless you're getting gang bangers, is among  
18 the murderers.

19 MR. ORTEGA: That's correct.

20 CHAIRMAN BURTON: Because it's usually somebody  
21 they know, or a freak thing, again, as opposed to gang bangers  
22 or professional killers. I mean, you know, they killed their  
23 husband, they killed their wife, they killed their wife's  
24 boyfriend, their husband's girlfriend, somebody. And they, I  
25 mean, they don't do that any more. They don't go out and commit  
26 petty theft.

27 Senator Ayala.

28 SENATOR AYALA: Mr. Ortega, correct me if I'm



1 wrong, but I understand that we have the largest percentage of  
2 parole revocations than any or state in the country?

3 MR. ORTEGA: That's my understanding, Senator;  
4 that's correct.

5 SENATOR AYALA: And we have around 18,000  
6 parolees that have flown the coop. They don't know where they  
7 are.

8 MR. ORTEGA: Absconded.

9 SENATOR AYALA: Absent without leave.

10 It appears to me that we must be doing something  
11 wrong. We should be able to improve on that.

12 Why do you think this is happening?

13 MR. ORTEGA: Again, Senator, I have to go back to  
14 what I talked to the Chairman about, and those are some of the  
15 programs. And they're not programmed well when they are  
16 released in order to make it into society. And they go back to  
17 the things that they did that got them the things that they  
18 wanted before they went into prison. And that could be in the  
19 area of theft, in the area of use of narcotics, in the area of  
20 robberies or burglaries.

21 SENATOR AYALA: Does that explain why we have the  
22 largest percentage of returnees than any other state in the  
23 country?

24 MR. ORTEGA: It's difficult for me to understand  
25 -- to answer that question, Senator. I'm not too sure if I know  
26 the correct answer for it. I think we can look at a number of  
27 different things.

28 Again, I go back and say that maybe it's entirely

1 possible that the inmate, when he is released, has not  
2 programmed sufficiently and prepared himself mentally to be able  
3 to go out and make it on his own.

4 SENATOR AYALA: Do you have any ways that you  
5 think we might improve the situation? It is not a good one when  
6 you've got 18,000 people out in the state, or where ever they  
7 are, convicted murderers and rapists, and we don't even know  
8 where they are. They're on parole, but they're gone. It's kind  
9 of scary when you think about that.

10 MR. ORTEGA: I think it is, and I think what is  
11 required is a concerted effort on the part of the Board of  
12 Prison Terms and Department of Corrections to develop some  
13 programs and some alternatives.

14 I know that that is in the works. I have talked  
15 to our Chairman about that, and that there are some ideas that  
16 they're looking at, and I'm sure we discussed it, Senator. We  
17 talked about just one of those, and that was the issue of  
18 electronic monitoring.

19 Right now, there is a program in progress between  
20 CDC and the Board of Prison Terms in trying to develop some  
21 protocol and a memorandum of understanding, if you will, on how  
22 we can use that, and a number of different things go hand in  
23 hand with that.

24 But I think, and a long-winded answer to your  
25 question, Senator, it seems to me that there has to be a  
26 concerted effort on the part of CDC and the Board of Prison  
27 Terms to develop some of those alternatives.

28 SENATOR AYALA: Is that in the works now?

1 MR. ORTEGA: Yes, I know that there have been  
2 several conversations. And as you well know, Senator, you were  
3 part of the Little Hoover Commission. There were a lot of good  
4 ideas that came as a result of that. I'm sure some of those  
5 will be considered.

6 SENATOR AYALA: Thank you.

7 CHAIRMAN BURTON: Any other questions? Anyone in  
8 support or opposition?

9 Pleasure of the Committee?

10 SENATOR LEWIS: Move confirmation.

11 CHAIRMAN BURTON: Call the roll.

12 SECRETARY WEBB: Senator Ayala.

13 SENATOR AYALA: Aye.

14 SECRETARY WEBB: Ayala Aye. Senator Brulte.

15 SENATOR BRULTE: Aye.

16 SECRETARY WEBB: Brulte Aye. Senator Hughes.

17 SENATOR HUGHES: Aye.

18 SECRETARY WEBB: Hughes Aye. Senator Lewis.

19 SENATOR LEWIS: Aye.

20 SECRETARY WEBB: Lewis Aye. Senator Burton.

21 CHAIRMAN BURTON: Aye.

22 SECRETARY WEBB: Burton Aye. Five to zero.

23 CHAIRMAN BURTON: Congratulations.

24 MR. ORTEGA: Thank you, Senator, thank you.

25 CHAIRMAN BURTON: Vincent Palmer, Youthful  
26 Offender Parole Board.

27 Yes, sir.

28 MR. PALMER: Mr. Chairman, just a few opening



1 remarks.

2 My name is Vincent Palmer. I'm currently a  
3 member of the Youthful Offender Parole Board. I'm in my second  
4 term. Originally appointed by Governor Wilson in 1993 and  
5 reappointed in 1997.

6 Prior to my time on the Youthful Offender Parole  
7 Board, I was employed by the California Youth Authority for 25  
8 years. I worked in the institutions and in field parole.  
9 Twelve years in the institutions, thirteen years in parole, and  
10 now five years on the Parole Board.

11 So, I feel I bring a great deal of experience to  
12 this job.

13 I am married and proud to say I just celebrated  
14 my 40th wedding anniversary this past weekend. Have three  
15 children and four grandchildren.

16 I am at this point ready to answer any questions  
17 that you might have for me.

18 CHAIRMAN BURTON: What do you look at when some  
19 kid comes, whether to keep a kid in or let him out?

20 MR. PALMER: Well, as opposed to the Board of  
21 Prison Terms, every single Youth Authority ward is reviewed  
22 prior to parole, with the exception of those that max out by age  
23 either 21 or 25. So, we are looking at every single ward that  
24 is being considered for parole.

25 CHAIRMAN BURTON: And what do you look for?

26 MR. PALMER: We look at what their original  
27 commitment offense was, the crime that they committed, their  
28 understanding or their ability to describe why they did what

1 they did, what they've learned about that behavior, and what  
2 they've done to correct it. That would include participation in  
3 the Victims Impact class that almost all wards --

4 CHAIRMAN BURTON: Let me cut to this, and I  
5 probably should have asked the Board of Prison Terms, do you  
6 coordinate with or share findings with, and maybe this is  
7 something somebody ought to consider, but the work that's done  
8 inside the prison by CDC with inmates has an impact on what the  
9 Board of Prison Terms does, in some ways at least, how  
10 successful they may or may not be.

11 I guess the same with you and the Youth  
12 Authority, and do you, like, ever coordinate or share your  
13 findings and say, you know, we're getting too many of these kids  
14 coming back, or there's a problem? Are you doing these things,  
15 like having a meaningful group thing with victims? Are you  
16 telling them the importance of education? Is somebody looking  
17 to see what they're going out to? Are they going out to a  
18 father that beats them up again, or no father, or no mother, no  
19 place to stay?

20 It seems that all you guys kind of work, you do  
21 your own deal. You do the best you can, but you're sort of in a  
22 vacuum. There's no cohesion when it all really, in my mind,  
23 should try to go together.

24 MR. PALMER: If I might, Senator, we get a great  
25 deal of information on the Youthful Offender Parole Board.  
26 Prior to any release on parole --

27 CHAIRMAN BURTON: But do you kickback to them?

28 MR. PALMER: Them being?



CHAIRMAN BURTON: The Youth Authority.

MR. PALMER: Yes, yes.

CHAIRMAN BURTON: You can find all about this guy, but you've got a history or a record. You've got information about what happens to these kids when they get out, and do they make it or don't they.

MR. PALMER: The Youthful Offender Parole Board meets every other month with the management staff of the Youth Authority and discusses.

CHAIRMAN BURTON: And you say, like, you guys, you must be doing something wrong because these guys are coming out worse than when they went in?

MR. PALMER: Right. For instance, a couple years -- several years ago now -- someone in the Youth Authority came up with the idea of actually conducting a class in a victim's issues, and having inmates go through that class.

And as we began to talk to these inmates and see that -- what kinds of things that they were repeating back to us, we encouraged the Youth Authority to expand that program. Now I would say virtually 90 percent of the wards that go through the Youth Authority, if not more than that, go through a victim's class.

CHAIRMAN BURTON: They realize they did something to another human being.

MR. PALMER: Right. We bring victims in. The Youth Authority actually brings victims in and confronts the inmates and say look, this is what you did to me, this is what you did to my family.

1           We also encourage victims to appear at our  
2 hearings, our annual review hearings and our parole  
3 consideration hearings.

4           CHAIRMAN BURTON: All that'll do is guarantee the  
5 guy stays there.

6           MR. PALMER: Not necessarily, Senator.

7           CHAIRMAN BURTON: It's been my experience.

8           MR. PALMER: You see, it's different than the  
9 Board of Prison Terms because our young men have to be released  
10 either 21 or 25. And I think even victims understand, most  
11 victims understand that it would be better to have a short  
12 period of time at least on paroled supervision to transition  
13 back into the community. And although they really never fully  
14 get over what has happened to them, they do understand how the  
15 system works in most cases.

16          CHAIRMAN BURTON: Any other questions?

17          SENATOR HUGHES: Question.

18          CHAIRMAN BURTON: Senator Hughes.

19          SENATOR HUGHES: Thank you.

20          I'd just like to ask you, do you think that the  
21 Board should allow early release for selected wards in order to  
22 hold down the population?

23          MR. PALMER: I'm not sure if you understand how  
24 the wards are committed to the Youth Authority.

25          They have a sentence, and then they're given a  
26 parole consideration date that is generally much shorter than  
27 that sentence.

28          SENATOR HUGHES: How much shorter? If they get

1 sentenced for 18 months, is that possible? What would be the  
2 amount of time?

3 MR. PALMER: On one extreme, they might have life  
4 term and get a seven-year sentence, seven-year parole  
5 consideration.

6 Under our current guidelines in Title Fifteen,  
7 murder is seven years.

8 A simple robbery with no weapon involved usually  
9 we set a parole consideration date of around two years, but the  
10 sentence might be three to four.

11 SENATOR HUGHES: So it's dependent upon the  
12 severity of the crime?

13 MR. PALMER: We have some guidelines that we use  
14 as base lines. And then they still have the opportunity to  
15 parole a little earlier than that based on their performance and  
16 behavior.

17 SENATOR HUGHES: Thank you.

18 CHAIRMAN BURTON: Any other questions? Any  
19 witnesses in favor or opposition in here? None.

20 Pleasure of the Committee?

21 SENATOR HUGHES: Move it.

22 CHAIRMAN BURTON: Moved by Senator Hughes. Call  
23 the roll.

24 SECRETARY WEBB: Senator Ayala.

25 SENATOR AYALA: Aye.

26 SECRETARY WEBB: Ayala Aye. Senator Brulte.

27 SENATOR BRULTE: Aye.

28 SECRETARY WEBB: Brulte Aye. Senator Hughes.

1 SENATOR HUGHES: Aye.

2 SECRETARY WEBB: Hughes Aye. Senator Lewis.

3 SENATOR LEWIS: Aye.

4 SECRETARY WEBB: Lewis Aye. Senator Burton.

5 CHAIRMAN BURTON: Aye.

6 SECRETARY WEBB: Burton Aye. Five to zero.

7 CHAIRMAN BURTON: Congratulations.

8 MR. PALMER: Thank you very much.

9 [Thereupon. This portion of the

10 Senate Rules Committee hearing was

11 terminated at approximately 2:33 P.M.]

12 --ooOoo--



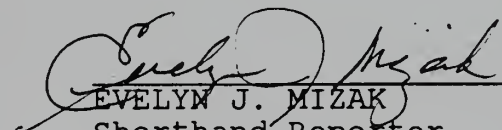
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 19<sup>th</sup> day of February, 1998.

  
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27                              Evelyn J. Mizak  
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APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

TOM ROSS, Consultant to SENATOR BRULTE

ALSO PRESENT

PHILLIP M. CHRISMAN, Member  
Fish and Game Commission

THERESA A. PARKER, Executive Director  
California Housing Finance Agency

CHRISTINE MINNEHAN  
Western Center on Law and Poverty

MARC BROWN  
California Rural Legal Assistance Foundation  
California Coalition for Rural Housing

CAROL A. PINKINS, Warden  
Northern California Women's Facility, Stockton

ROY MABRY, President  
California Association of Black Correctional Workers

GERALD J. STOCKER, Captain  
California Department of Corrections



INDEXPage

Proceedings ..... 1

Governor's Appointees:

PHILLIP M. CHRISMAN, Member  
Fish and Game Commission ..... 1

Decision of CHAIRMAN BURTON to Put Hearing  
over for One Week ..... 1

THERESA A. PARKER, Executive Director  
California Housing Finance Agency ..... 2

Background and Experience ..... 2

## Questions by CHAIRMAN BURTON re:

Lending Outside Fresno Area ..... 3

Loans on Condominiums ..... 3

Alien Verification Process ..... 4

Wait for Federal Regulations to Come Out ..... 5

Application of Verification Process  
to Single Home Mortgages ..... 5

Any Other States Moving Ahead of  
Federal Regulations ..... 6

Any Penalties for Waiting until Federal  
Regulations Came Out ..... 6

Effect of Regs on Undocumented or  
Ineligible People ..... 7

Single Vs. Multi-family Loans ..... 8

Views on Consolidating the Three  
Housing Agencies ..... 9

Actions of CHFA to Make More Loans  
Available to Low and Moderate Income  
Households ..... 10





Loans to Developers of Multi-family Dwellings .....	10
--	----

Phasing Out of Federal Rent Supplement Program .....	11
---	----

Questions by SENATOR HUGHES re:

Data on Income Levels of Households Served ....	12
---	----

Questions by SENATOR AYALA re:

Number of People in Family that Must Be Eligible for a Loan .....	13
--	----

Eligibility on Rentals vs. Home Loans .....	15
---	----

Witnesses in Support:

CHRISTINE MINNEHAN Western Center on Law and Poverty .....	15
---	----

MARC BROWN California Rural Legal Assistance Foundation California Coalition for Rural Housing .....	16
--	----

Motion to Confirm .....	17
-------------------------	----

Committee Action .....	17
------------------------	----

CAROL A. PINKINS, Warden Northern California Women's Facility, Stockton .....	18
--	----

Background and Experience .....	18
---------------------------------	----

Questions by CHAIRMAN BURTON re:

Overcrowding at Women's Facilities .....	19
--	----

Possibility of Punishment Options outside of Incarceration .....	20
---	----

View on Substance Abuse Programs .....	20
--	----

Ideas on Programs to Reduce Recidivism .....	22
---	----

Questions by SENATOR HUGHES re:

Programs for Inmates with Children .....	23
--	----

Problem of Drugs in Institution .....	24
---------------------------------------	----



1	Programs for Staff .....	25
2	Sexual Harassment Complaints .....	26
3	Planned Training in Sexual Harassment .....	27
4	Percentage of Male and Female Staff .....	28
5	Adequacy of Training .....	29
6	Personal Occasions of Sexual Harassment .....	30
7	Sexual Harassment of Inmates .....	31

8 Questions by SENATOR AYALA re:

9	Percentage of Prisoners That Are	
10	Revocations of Parole .....	32
11	High Rates of Recidivism in California .....	33
12	Biggest Problem within Prison Population .....	33
13	State Smoking Policy in Prisons .....	35

14 Questions by SENATOR HUGHES re:

15	Implementation of New Grooming Standards .....	37
----	--	----

16 Questions by CHAIRMAN BURTON re:

17	Theory behind Prohibition on Dyeing	
18	Gray Hair .....	39
19	Aggressive Placement of Ex-prisoners	
20	in Job Opportunities .....	40
21	Use of Prisoner's Advisory Councils .....	41

22	Motion to Confirm .....	41
----	-------------------------	----

23 Witnesses in Support:

24	ROY MABRY, State President	
25	Association of Black Correctional Workers .....	41
26	GERALD STOCKER, Facility Captain	
27	California Department of Corrections .....	41
28	Committee Action .....	42

29	Termination of Proceedings .....	43
----	----------------------------------	----

30	Certificate of Reporter .....	44
----	-------------------------------	----





P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: There's a situation with Mr. Chrisman. I was just given a letter of opposition to the appointment. I'd like to hear from who's here, then put it over because Senator Hayden wants to be here. Put it over for Monday, take it up next Thursday. It'll be plenty of time.

If there's people here, I don't want them to have to come back.

SENATOR BRULTE: Unless they live here.

CHAIRMAN BURTON: The other thing is, depending on what's happening with bonds, and it looks like not much, we could be in session more than Monday and Thursday next week. That's where we are.

Committee will come to order.

[Thereupon the Rules Committee  
acted upon legislative agenda  
items.]

CHAIRMAN BURTON: We were going to pull Mr. Chrisman over until the end, pending Senator Hayden's arrival to speak on this. He's locked in at the airport and probably isn't going to be here in time today.

It would be my intention, then, to put this off until Monday, to have the hearing Monday. Then there would be floor action by at least Thursday unless we meet earlier in the week, which would give the body time to meet the time deadline.

If there are people here either in support or opposition who can't be here next week, like that are coming

1 from out of town, they could speak now. Otherwise, we'd have  
2 you come back next Monday. Thank you.

3 Theresa A. Parker, Executive Director,  
4 California Housing Finance Agency. Yes, ma'am.

5 MS. PARKER: Good afternoon, Mr. Chair and  
6 Members. My name is Theresa Parker, and I appear before you  
7 today to seek your approval on the confirmation to the position  
8 of Executive Director of the California Housing Finance Agency.

9 I believe your staff has provided you with a copy  
10 of my resume and my background, and also some information on the  
11 Housing Finance Agency.

12 But I thought I would touch briefly on my  
13 experience and my qualifications that have brought me to this  
14 position today, and also to just touch on how they relate to the  
15 California Housing Finance Agency.

16 I started my career in state government over 23  
17 years ago as a student assistant. I have worked my way up  
18 through a variety of positions in state government in the  
19 professional managerial areas, primarily in the budgetary and  
20 fiscal responsibilities of the state.

21 I served as the Undersecretary of the Health and  
22 Welfare Agency, and I also was recently, before coming to go  
23 CHFA, served as the Chief Deputy Director in the Department of  
24 Finance, where I sat on more than 30 boards and commissions,  
25 many of them having to do with bond financing and housing tax  
26 credits and tax exempt financing.

27 These qualifications, I believe, really blend,  
28 then, to the heart of what the California Housing Finance Agency

1 does. It is a very unique agency in state government. It  
2 really acts as a state chartered bank, where we provide lending  
3 at below market interest rates, using funds from the capital  
4 private sector market for affordable housing to both single  
5 family and people seeking safe, affordable multi-family  
6 residential housing.

7 Over years, the agency has provided almost 7.6  
8 billion in capital financing to affordable housing. We've  
9 created over 80,000 units, and -- excuse me, served single  
10 family lending to over 80,000 families and created --

11 CHAIRMAN BURTON: Do you lend money on anything  
12 outside the Fresno area, or are you going to follow Karnie  
13 Hodge's past policies?

14 MS. PARKER: Actually, I've really tried to say,  
15 Senator, that the agency has really been working in the last  
16 five years about trying to do more and more of its servicing of  
17 lending in the single family area to the high cost areas.

18 And I checked just the last week, and this year  
19 we've done about \$450 million worth of loans, and over half of  
20 that is in the target of high cost areas, which are primarily  
21 the regional coastal counties.

22 So, considerably less of our lending really is in  
23 the Central Valley.

24 CHAIRMAN BURTON: Can you make loans on like  
25 condominiums?

26 MS. PARKER: We make loans on condominiums in our  
27 high cost areas because the cost of housing is so expensive, and  
28 particularly in areas like San Francisco and Los Angeles.



1 CHAIRMAN BURTON: Your answer is yes?

2 MS. PARKER: Yes, it is, Senator.

3 CHAIRMAN BURTON: Can you address the alien  
4 verification process question? It seems to me that the  
5 department's jumping ahead of the federal regulations, jumping  
6 ahead of everything and going beyond the federal regulations.

7 Have you given thought to retroactivity?

8 MS. PARKER: Well, Senator, let me tell you what  
9 we're doing. We have just sort of started our process, and  
10 we're really following on the heels of what the Housing and  
11 Community Development Department has done, who've gone through  
12 the whole hearing process on their regulations. We've sort of  
13 started out with where they left off, since we have some similar  
14 programs.

15 We are in the process now of basically developing  
16 draft regulations. We have -- before we have started the  
17 process, we are actually meeting with industries, stakeholders,  
18 advocacy groups, to develop and hear their comments before we do  
19 our draft regulations, which we will be taking to our board  
20 along our timelines at our May board meeting.

21 We think it's very important to get input into  
22 the process before we start it, given that there are a number of  
23 concerns. We also think it's important to be able to get some  
24 of the issues raised, because we plan to be spending some time  
25 with the federal government, who has issued interim guidelines  
26 that came out last fall, and is expected to issue guidelines --  
27 or, regulations next month.

28 So, we are raising issues through these processes

1 so that we can get more information from the federal government.

2 CHAIRMAN BURTON: Why not wait until you see what  
3 they do?

4 MS. PARKER: We expect that our timelines  
5 actually will coincide with their timelines.

6 CHAIRMAN BURTON: Why don't you wait till you see  
7 what they do before you start doing something that their regs  
8 may or may not preclude?

9 MS. PARKER: I think the dilemma for the state  
10 agency, Senator, is that because the law was passed and  
11 effective upon enactment in August, that we are needing to move  
12 forward to implement regulations. And I think also --

13 CHAIRMAN BURTON: There are no regulations to  
14 implement. That's my point.

15 MS. PARKER: There are -- the federal government  
16 has given us interim guidelines from which to develop and base  
17 regulations.

18 CHAIRMAN BURTON: There are no regulations.  
19 There are some guidelines. There are no federal regulations to  
20 implement.

21 My only question would be, why not wait to see  
22 what you're dealing with before you start dealing with it?  
23 Which, I guess, could be a rhetorical question.

24 Do you know whether or not the verification  
25 process would apply to outstanding single home mortgages?

26 MS. PARKER: Our plans are not to do  
27 that, Senator. Ours would be prospective.

28 CHAIRMAN BURTON: Wouldn't work too well, would



1 it?

2 MS. PARKER: No, it wouldn't.

3 CHAIRMAN BURTON: You have, as I understand it,  
4 there was one proposed regulation that was going to do that. I  
5 guess that wasn't your fault, though.

6 MS. PARKER: Again, I think, Senator, HCD has  
7 gone through a process of developing some regulations. We have  
8 essentially looked at what they've done and are working with  
9 them when some of our programs are similar.

10 But we are in the process of taking their  
11 information and then going out to the advocacy groups and  
12 essentially hearing for ourselves what are their issues.

13 CHAIRMAN BURTON: Is there any other state that's  
14 moving ahead of the federal regs?

15 MS. PARKER: Senator, we are in conversations  
16 with our colleagues in other states.

17 CHAIRMAN BURTON: It's kind of a yes or a no.

18 MS. PARKER: Not that I'm aware of, Senator.

19 CHAIRMAN BURTON: What would we lose if you  
20 waited for the federal regs.

21 In other words, saw what you're dealing with  
22 before you tried to deal with it. Would we lose some money or  
23 some dough?

24 MS. PARKER: Senator, it's hard for me to answer  
25 the question because I don't know how long we would be waiting.

26 CHAIRMAN BURTON: What would we lose if we waited  
27 for the federal regulations to come out before implementing  
28 them? Is there a penalty?

1 MS. PARKER: Not that I'm aware of, unless the  
2 federal government essentially challenged that the tenants of  
3 our bond financing did not meet -- was not consistent with  
4 federal law.

5 CHAIRMAN BURTON: The only way that would happen  
6 is if you're jumping ahead of the game. If their regs come out,  
7 and you comply with their regulations, you'd be consistent with  
8 what ever they did. There'd be no chance of jeopardizing the  
9 bonds.

10 MS. PARKER: I don't think that that's likely,  
11 but I just say theoretically, given the question you asked.

12 CHAIRMAN BURTON: The question I asked, the only  
13 way you could be found out of sinc with the regs is when the  
14 regs came out and you acted before. If you don't act until the  
15 regulations were there, unless it was either a slip-up or a  
16 total refusal to follow the regs, there couldn't be a problem.

17 MS. PARKER: Senator, one thing I would point  
18 out, that there's a substantial amount of our program that we  
19 are actually the agents of the federal government on in our  
20 multi-family. Our regulations would not proceed that process at  
21 all. We would only be issuing regulations on state programs.

22 CHAIRMAN BURTON: If you had a grandfather, and  
23 if somehow there was a relative that was an undocumented person  
24 or ineligible, would that affect the grandparents or somebody  
25 who was actually eligible and not covered?

26 MS. PARKER: One of the things that we are  
27 looking at, that we are talking with some of the sponsors of  
28 projects, is how we would treat, on the multi-family side,

1 people who are in existing units and people who would be  
2 applying for units.

3 Certainly, as I mentioned, in the single family  
4 side, this is all prospective.

5 CHAIRMAN BURTON: Shouldn't it be the same with  
6 multi?

7 MS. PARKER: It depends on who is on the  
8 documents for the loan. If a family comes in on a single  
9 family side, and one of the couple, one person, had legal  
10 citizenship or had permanent legal status, they could  
11 essentially get the loan and their family member, who would also  
12 be living in the house, wouldn't have to be on the loan, and  
13 there would be no problem with that situation.

14 On the multi-family side, requirements currently  
15 be that all adult members in the family are registered. And  
16 with the way we are talking about drafting the regulations is  
17 that for family members that are currently in multi-family  
18 housing, that their family members -- grandparents, children --  
19 would be grandfathered in.

20 CHAIRMAN BURTON: What's multi-family?

21 MS. PARKER: Those are rental apartment  
22 Houses.

23 So, we lend on both single family, and we also  
24 help build affordable multi-family rental housing.

25 CHAIRMAN BURTON: So, I'm a developer. I get  
26 money from you, and then it's like somebody can't move in. My  
27 grandfather can move in, but he's got to leave my grandmother  
28 out because she's undocumented and he isn't?



1 MS. PARKER: The people who would apply for  
2 rental housing, for the affordable units, would have to -- at  
3 least this is the way we've drafted the regulations and are  
4 essentially going through a discussion process -- that they  
5 would all have to meet, have a legal status.

6 CHAIRMAN BURTON: If they own a home, they get a  
7 pass. If they're renters, they don't?

8 MS. PARKER: Well, prospectively --  
9 retrospectively, if their grandparents were not legal, or they  
10 had children, they would be grandfathered in.

11 Prospectively, we would, on the multi-family  
12 side, require that any adult would meet the citizenship and  
13 legal residency status.

14 CHAIRMAN BURTON: What's your feeling on  
15 consolidating the three housing agencies?

16 MS. PARKER: There was a task force that was  
17 convened two years ago to look at the consolidation of HCD --

18 CHAIRMAN BURTON: What's your feeling?

19 MS. PARKER: I follow the recommendation of all  
20 of the people that participated in that, saying that they should  
21 not be consolidated.

22 CHAIRMAN BURTON: Why?

23 MS. PARKER: Because the determination was that  
24 the entities that were targeted for each group to serve were  
25 diverse enough that we would cause more confusion to them to  
26 meet their specific requirements by trying to collapse and join  
27 everyone together. We want to simplify the process for  
28 sponsors, particularly given how difficult housing is to build,

1 not make the more difficult.

2 CHAIRMAN BURTON: What actions has the CHFA taken  
3 to make more loans available to low-moderate and low income  
4 households? Are you going to do anything?

5 You're making stuff available to people that may  
6 not need the program.

7 MS. PARKER: One of the things that the agency is  
8 very proud of is that over 60 percent of our loans go to low and  
9 very low income families. The average income of a family that  
10 we lend to for a single family house is under \$34,000.

11 CHAIRMAN BURTON: How about when you're lending  
12 money to the developers of the multis?

13 MS. PARKER: The multi-family rates are, in each  
14 program we do below market rates. And in multi-family, it's  
15 between 6.2 and 6.5 percent.

16 CHAIRMAN BURTON: What are doing to make sure  
17 that the people renting them are the people that need it? In  
18 other words, you're making funds available to people to buy a  
19 house who may not even have the down payment.

20 What are you doing when you're lending me the  
21 money as a developer to make sure that I'm letting people of  
22 lower income in?

23 MS. PARKER: We have requirements with anybody  
24 who is our sponsor to meet the affordability requirements on  
25 each loan we do.

26 CHAIRMAN BURTON: Which is?

27 MS. PARKER: That the units have to be at a  
28 minimum of 20 percent affordability, and we have projections up



1 that are 100 percent affordable units. We, as part of any  
2 lending and underwriting --

3 CHAIRMAN BURTON: It's 20, 50, and 100, you said?

4 MS. PARKER: It's 20 percent at 50 percent of  
5 median income. That's the minimum amount of affordability for  
6 our lending. But we fund projects that have 100 percent  
7 affordability.

8 CHAIRMAN BURTON: So, the minimum would be, it's  
9 got to be 20. What do you use to try to get the 20 up to 50 or  
10 60? I mean, if the person on their own wants to do it, you  
11 don't give any credit?

12 MS. PARKER: No, no. Senator, the agency's goal  
13 and mission is to provide and promote more affordable housing.  
14 We try to underwrite and work with for-profits and nonprofits to  
15 get as much affordability out of every unit we can.

16 In fact, we also are trying to preserve units  
17 that may cross over to above market rate rents to preserve them  
18 to be below market rate rents for affordability.

19 CHAIRMAN BURTON: One last question.

20 Is there anything that your agency can do when  
21 the federal rents supplement program ended or is ending, and  
22 they're phasing out units -- at least there's people in San  
23 Francisco that could afford to live there today, and they've got  
24 to move out tomorrow -- to try to move into the breach? Is  
25 there something you can do?

26 MS. PARKER: That's something that we are looking  
27 as being one of the primary activities for our next year, is to  
28 look at the issue of preservation.

1           There are federal programs that their contracts  
2 for subsidy for affordability are phasing out. We have  
3 positioned ourselves, we developed a program two or three years  
4 ago, to go out and deal with those kinds of sponsors to see if  
5 through the kind of lending that we could do, that we could help  
6 them refinance, at the same time, keep as many of those units as  
7 possible under affordable housing.

8           CHAIRMAN BURTON: If you help them, I think that  
9 ought to be the price they pay.

10           Thank you very much.

11           Senator Hughes.

12           SENATOR HUGHES: Do you now keep any data on the  
13 households you serve according to income levels?

14           MS. PARKER: Yes, Senator. We basically keep  
15 very good statistics on the income levels of all of our  
16 borrowers. That's why I quoted you the fact that the average  
17 income of all of the borrowers in our programs are under \$34,000  
18 a year for our first-time home buyers. We're very proud of  
19 that.

20           SENATOR HUGHES: What about renters?

21           MS. PARKER: Renters, our affordability is about  
22 75 percent for low and very low incomes.

23           SENATOR HUGHES: That's current?

24           MS. PARKER: These are absolutely current  
25 statistics. These are the statistics that we actually put  
26 together for a presentation that we did before the Assembly  
27 Housing Committee last fall.

28           We also have, for our single family, again, given

1 the low incomes, three out of four of our single family loans go  
2 to first-time home buyers that only put 3 percent down. So we  
3 again, we are really trying to help people be able to see home  
4 ownership as a dream.

5 SENATOR HUGHES: That's commendable.

6 Thank you.

7 CHAIRMAN BURTON: Senator Ayala.

8 SENATOR AYALA: I just have a question that I  
9 think I asked you earlier.

10 How many people in the family have to be eligible  
11 for a loan? The applicant and anyone else?

12 MS. PARKER: No, Senator, if one person in the  
13 family applies, as long as we take that person's income into  
14 consideration, that one person can get a loan. We won't look at  
15 any other member whose name would not be on the title.

16 SENATOR AYALA: But earlier regulations prohibit  
17 a loan to someone if all the members were not eligible along  
18 with the applicant?

19 MS. PARKER: Currently when we -- one of the  
20 eligibility requirements is that people have to meet the income  
21 test for their family; they have to be a legal citizen or  
22 permanently residing in this country, a legal citizenship  
23 status.

24 The only change now under federal law, when we  
25 adopt these regulations in the future, will be that instead of  
26 self-certifying, they would have to provide proof of their  
27 citizenship status.

28 SENATOR AYALA: In the Department of Veterans



1 Affairs, if a veteran is eligible and gets a loan, the rest of  
2 the family don't have to be veterans.

3 MS. PARKER: Right.

4 The only person that we would look at on the loan  
5 document is the person who's on title.

6 SENATOR AYALA: Earlier regulations required  
7 every member to be --

8 MS. PARKER: Only the people who are on the loan  
9 documents. Only those people had to look at certification.

10 SENATOR AYALA: I'm reading from the analysis  
11 here. It says, "Under the prior HCD draft regulations, every  
12 member of a family must submit proof of eligibility. If any one  
13 family member were deemed ineligible, the family would be  
14 rejected for the housing, or, if already living in it, would  
15 have six months to vacate."

16 MS. PARKER: Senator, I think maybe what they're  
17 touching on is the requirements that HCD has drafted in their  
18 regulations for people living in rental housing, not in the  
19 housing where they would purchase the home.

20 SENATOR AYALA: This is not true any more? This  
21 requirement that every member be eligible?

22 MS. PARKER: The requirement that HCD has  
23 proposed, that you would look at certain members in the family  
24 prospectively, all the adults in the family prospectively who  
25 are living in the rental housing.

26 And retrospectively, upon recertification, you  
27 would look at -- just to see if the primary family members met  
28 the citizen requirement.

1                   SENATOR AYALA: As long as the applicant met the  
2 requirements, it doesn't matter who else lives in that dwelling?

3                   MS. PARKER: The way that HCD is drafting the  
4 regs, and what we are looking at for our regulations,  
5 prospectively we would have to look at all adult members in the  
6 household because right now, all adult members in the household  
7 are on the rental agreement.

8                   SENATOR AYALA: I don't want to be redundant, but  
9 if you're a veteran, you get a veteran loan, and not all members  
10 of the family have to be a veteran.

11                  MS. PARKER: Yes.

12                  One thing veterans will have, veterans will more  
13 than likely be excluded under federal law anyway, so they  
14 haven't had to be looked at.

15                  SENATOR AYALA: I don't have any more questions.

16                  CHAIRMAN BURTON: Speakers in support?

17                  MS. MINNEHAN: Mr. Chair, Members of the  
18 Committee, Christine Minnehan, Western Center on Law and Poverty  
19 in support of Ms. Parker's nomination.

20                  We had a real experience of Ms. Parker's  
21 commitment to low and very low income renters last year during  
22 the budget process. She aggressively and assertively opened a  
23 number of doors with the administration to ensure that one of  
24 the most important programs for moving moms from welfare to work  
25 received the kind of hearing that it deserved.

26                  She has continued to work with us on supportive  
27 service housing. We met last week on the alien verification  
28 regulations that you have asked all the questions that we were



1 posing to her. We felt as though we were receiving the kind of  
2 hearing, the kind of consideration, to move from what we  
3 consider the unduly harsh and premature regulations that the  
4 Department of Housing has advanced to ensure that the thoughtful  
5 construct that is necessary in those regulations comes out of  
6 the California Housing Finance Agency.

7 And then finally, the at-risk buildings, the ones  
8 in San Francisco that we have been working on, we felt that the  
9 ideas, the program that Ms. Parker's beginning to pull together  
10 is going to provide us with the best possible opportunity for  
11 saving as many of those at-risk units as is possible in the  
12 state of California.

13 Thank you for consideration of our remarks.

14 CHAIRMAN BURTON: Next.

15 MR. BROWN: Mr. Chairman and Members, Marc  
16 Brown, California Rural Legal Assistance Foundation and  
17 California Coalition for Rural Housing here to strongly support  
18 this nomination.

19 Last year, when it came time for the Governor to  
20 act on our self-help housing budget proposal, Terry Parker was  
21 in the Department of Finance's office, in the Governor's office,  
22 talking to staff, making sure that it was signed.

23 Last year when it came time for the Governor to  
24 consider our farmworker housing grant budget augmentation  
25 proposal, again, Ms. Parker was down in the Governor's office to  
26 get that bill signed, or helped influence it. We appreciate  
27 that.

28 She's been very effective. As well as the budget

1 item that Christine Minnehan was talking about, she's been  
2 helpful, has been there, has been an advocate, been effective.  
3 She's helped keep the focus on rental housing at CHFA. That  
4 wasn't always the focus, and she's also helped make sure that  
5 the money is equitably distributed around the state, and it  
6 doesn't all go to Fresno.

7 So, we strongly support the nomination. Thank  
8 you.

9 CHAIRMAN BURTON: Any other support or  
10 opposition?

11 Pleasure of Committee?

12 SENATOR HUGHES: Move it.

13 CHAIRMAN BURTON: Moved by Senator Hughes.  
14 Please call the roll.

15 SECRETARY WEBB: Senator Ayala.

16 SENATOR AYALA: Aye.

17 SECRETARY WEBB: Ayala Aye. Senator Brulte.

18 SENATOR BRULTE: Aye.

19 SECRETARY WEBB: Brulte Aye. Senator Hughes.

20 SENATOR HUGHES: Aye.

21 SECRETARY WEBB: Hughes Aye. Senator Lewis.

22 SENATOR LEWIS: Aye.

23 SECRETARY WEBB: Lewis Aye. Senator Burton.

24 CHAIRMAN BURTON: Aye.

25 SECRETARY WEBB: Burton Aye. Five to zero.

26 CHAIRMAN BURTON: Congratulations.

27 MS. PARKER: Thank you all very much.

28 CHAIRMAN BURTON: Congratulations.

1 Carol Pinkins, Warden, Northern California  
2 Women's Facility, Stockton.

3 MS. PINKINS: My name Carol A. Pinkins.

4 I want to thank the Committee and Chairperson for  
5 giving me the opportunity to speak regarding my experience and  
6 qualifications for the Warden at the Northern California Women's  
7 Facility.

8 I have approximately 22-plus years in YACA, Youth  
9 and Adult Corrections, 8 years with the Department of Youth  
10 Authority, and 14 years with the Department of Corrections.

11 I started my career, my state career, in 1975 as  
12 a permanent intermittent correctional officer at California  
13 Medical Facility, and also I was a permanent intermittent group  
14 supervisor for the Northern California Youth Center.

15 I was eventually picked up as a full-time  
16 correctional officer at the California Medical Facility, and I  
17 later promoted and went to the Department of Youth Authority as  
18 a youth counselor. While working with the Department of Youth  
19 Authority, I held numerous positions: Youth Counselor; Parole  
20 Agent I; an instructor at the Youth Training Academy. I was  
21 also a Treatment Team Supervisor, and last, prior to me  
22 transferring from the Youth Authority, I was the Assistant  
23 Superintendent of a youth camp, a conservation camp.

24 Shortly after that, I transferred back to the  
25 Department of Corrections at Sierra Conservation Center as a  
26 Community Resource Manager, where I was responsible for  
27 interacting with the community and volunteer program at Sierra  
28 Conservation Center.



1           While at Sierra Conservation Center, I was in the  
2 classification of a Correctional Counselor I, Correctional  
3 Counselor II acting, Program Administrator. And then at that  
4 point I decided that I wanted to work with females, so I went  
5 down to CIW on a lateral transfer. I want to say that that was  
6 probably one of the greatest opportunities and experience that I  
7 have had in my career.

8           While at CIW, I was responsible for coordinating  
9 and implementing the HIV and AIDS program. I also started the  
10 battered women's group at CIW, which is now at all of the female  
11 institutions. We currently have just started that program at  
12 the Northern California Women's Center, in conjunction with the  
13 San Bernardino County Women's Center.

14           While at Sierra Conservation Center -- after I  
15 left CIW, excuse me, I went to California Men's Colony as a  
16 Correctional Administrator. While there, I was responsible for  
17 program as well as classification. I then went back to Sierra  
18 Conservation Center, and I was in the classification of  
19 Associate Warden. I promoted also to Chief Deputy Warden.

20           I was also asked to go North Kern State Prison,  
21 and I acted as Warden for five months, and while at Sierra  
22 Conservation Center, I was the acting Warden for seven months  
23 because the Warden had retired.

24           CHAIRMAN BURTON: Do you have any idea to  
25 solutions to the overcrowding at the women's facilities?

26           MS. PINKINS: Currently, we're 196 percent  
27 overcrowding, and we have double celling. We're the 270 design.

28           We're not in the gym yet. We have not had any



1 serious problems with the overcrowding.

2 CHAIRMAN BURTON: Do you have any ideas on how to  
3 deal with that problem, like possibly punishment options outside  
4 of incarceration?

5 MS. PINKINS: One of the areas that I've talked  
6 to some of people in our community, and they're looking at a  
7 program where, as the women leave the institution, they're going  
8 to set up some type of training program in the city of Stockton.  
9 I'm looking at that.

10 I personally feel that if there was a viable  
11 training program for women to get some skills, nontraditional  
12 types of skills, where they could go out into the community and  
13 earn an adequate living for their children.

14 CHAIRMAN BURTON: That's after they get out.  
15 I mean in lieu of being in.

16 MS. PINKINS: Well, I think in community would  
17 need some type of preventive type of training for the women  
18 prior to them coming into the institutions. But after they  
19 leave institution, there still needs to be some type of training  
20 program, or something where the women will not return back to  
21 the institution.

22 CHAIRMAN BURTON: What's your view of the  
23 substance abuse programs for women?

24 MS. PINKINS: I don't have that program at my  
25 institution, but I think it's a good program mainly because --

26 CHAIRMAN BURTON: Why is it not present in your  
27 institution?

28 MS. PINKINS: Because the program went to the

1 Central California Women's Facility.

2 CHAIRMAN BURTON: There's nobody in your  
3 institution that's got chemical dependency problems?

4 MS. PINKINS: Yes, they do, and we have --

5 CHAIRMAN BURTON: I'm not blaming you for not  
6 having it. I'm blaming Mike Neal.

7 I mean, they only put it in one place? Could you  
8 use a program like that?

9 MS. PINKINS: Yes, I could.

10 CHAIRMAN BURTON: How expensive or what would it  
11 take for you to do that? More space, more money, more what?

12 MS. PINKINS: I think I could do with the current  
13 space that I have. The program now requires at least 200  
14 inmates, and my population is only 760 inmates. So, it may be a  
15 problem in keeping 200 inmates in that program.

16 We currently have the AA and NA coming in, in the  
17 evenings, and we have that program. And the program is full,  
18 and we have waiting list.

19 CHAIRMAN BURTON: Why would there be a waiting  
20 list?

21 MS. PINKINS: Because we have 60 to 70 people  
22 currently in the program, and the room only holds so many  
23 people. We utilize volunteers to come in.

24 CHAIRMAN BURTON: So, the room holds a finite  
25 number of people. How about a bigger room?

26 MS. PINKINS: We could utilize a bigger room,  
27 but we would need additional volunteers and we'd need additional  
28 sponsors, staff, to be in the room.

1 CHAIRMAN BURTON: Did you try to do that?

2 MS. PINKINS: Not at this point. I've only been  
3 there eight months, and we would -- it would entail having  
4 another volunteer staff to supervise the volunteers who are  
5 sponsoring the program.

6 CHAIRMAN BURTON: This is as much for your bosses  
7 out there as it is you, but I think that almost every study  
8 indicates that if we could deal with the chemical dependency  
9 problem in a constructive way for people who are in prison, that  
10 it would dramatically increase the possibility that they might  
11 not come back when they get out.

12 I would just hope, if they only need some staff  
13 people to supervise volunteer sponsors in AA and NA, even if  
14 they aren't putting the money into the program like they should,  
15 and how they come up like it's got to be 200, I think they could  
16 do it with 100. I think that would be beneficial. There's  
17 nothing much more cost effective than a twelve-step program that  
18 costs nothing. If you hit one out of three, it's a pretty good  
19 saver.

20 What other ideas do you have, if any, on programs  
21 to reduce recidivism among women inmates?

22 MS. PINKINS: We have a Battered Woman's program  
23 there. What that program does, it helps the women identify the  
24 patterns, and also increases their self-esteem.

25 We have a Parenting Program. It assists the  
26 women in becoming parents, and how to deal with their children.

27 We have a Making a Better Woman. That program  
28 deals with self-esteem. It's in conjunction with the religious



1 program.

2 One of the things that I found with females is a  
3 very low self-esteem. If we can get programs in the facility  
4 that could help them increase their self-esteem, be more  
5 confident when they go out into the community, I believe most of  
6 them -- more would be successful.

7 CHAIRMAN BURTON: I'll let Senator Hughes ask  
8 about dental care.

9 SENATOR HUGHES: You were talking about  
10 self-esteem and parenting.

11 What kind of program do you have for these  
12 inmates to deal with their children who are minors? What  
13 happens when they have visitation? Do you have any prescribed  
14 type of interaction activities for the mother and the children?  
15 Or, do they just come in and see them? And how frequently do  
16 these children have contact with their parents?

17 I'm not talking about infants. I'm talking at  
18 least maybe school aged children or pre-kindergarten children.

19 MS. PINKINS: The only program we have is the  
20 visiting program. It depends on where the child lives, and how  
21 long it takes them to get to the institution.

22 SENATOR HUGHES: When they visit, is there anyone  
23 from your staff to help them?

24 I would imagine, you know, I have children. And  
25 I can't imagine how you even feel when you see your mother  
26 incarcerated.

27 Do you have anyone to guide or counsel these  
28 mothers about how they deal with them, having them for such a



1 short period of time? How they show love and affection, and  
2 it's quite all right to do it, even though they're in a penal  
3 institution?

4 MS. PINKINS: Yes. We have the Parenting  
5 Program. That program, they meet once a week, and they talk  
6 about those kinds of things, on taking responsibility for your  
7 children. It's okay to love your kids, embrace them. And that  
8 program is very successful. It's a six-week program, and after  
9 the completion of the program, we have a small graduation.

10 But I've gotten feedback from some of the women,  
11 and it does help them because prior to being incarcerated,  
12 they're taught things that they never thought about before. So,  
13 it's not a big program, but it's a start. We are getting good  
14 feedback from the women in the program.

15 SENATOR HUGHES: Especially since maybe some of  
16 these women didn't have the kind of love and care that you might  
17 be teaching them about in this program that you talk about.

18 MS. PINKINS: Yes, and we also have another  
19 program where there are women who have been abused as children.  
20 In that program, we talk about feelings, we talk about how you  
21 felt, and it's okay, you know, in protecting your kids to make  
22 sure that that does not happen to your children.

23 It's a caring program, and as I said earlier, we  
24 are getting good feedback from the women.

25 SENATOR HUGHES: How wide spread is the sale and  
26 distribution of drugs in the institution that you're in now?

27 MS. PINKINS: In our institution, we have not had  
28 a lot of incidents resulting in drugs.

1               Recently we did do a search of the institution,  
2 and we utilized the canine dogs from the Northern California  
3 Youth Center. And the dog made 12 hits, and we did urinalysis.  
4 We have not gotten the results in from that yet. And we did  
5 find a small bag of marijuana.

6               SENATOR HUGHES: How long ago was that?

7               MS. PINKINS: This was about two weeks ago.

8               SENATOR HUGHES: Is marijuana the most  
9 threatening drug that you found there, or do you have higher  
10 levels?

11              MS. PINKINS: The marijuana in that particular  
12 incident was the only drug that we found.

13              SENATOR HUGHES: The only one?

14              MS. PINKINS: Yes.

15              SENATOR HUGHES: What efforts do you also have  
16 for staff, if any? You know, it's not just the inmates that  
17 might be addicted to some of these drugs.

18              What do you have for staff?

19              MS. PINKINS: You mean like programs?

20              SENATOR HUGHES: Yes.

21              MS. PINKINS: If a staff member -- we have what  
22 we call the EAP program, where, if a staff member is having  
23 problems, they can be referred to the Employee Assistance  
24 Program where they can get some counseling in those areas.

25              We also have counselors. We have supervisors who  
26 are trained to talk to staff, to be sensitive to the staff. An  
27 example, if you have a person who's not coming to work, I try to  
28 relate to my supervisors that it's important that you, when you

1 notice something different from a staff member, that you sit  
2 down and talk to that staff to see if there's something you can  
3 do to assist that staff before they get to the point where we  
4 end up taking adverse action or firing the employee.

5 Because I think that it's really important that  
6 we become pro-active, if we let staff know what our expectations  
7 are, and then we assist them every day, doing their job the best  
8 that they can do.

9 SENATOR HUGHES: Do you have any complaints of  
10 sexual harassment, whether it's on the inmate side or on the  
11 staff side?

12 MS. PINKINS: I have not since I've been there  
13 the eight months. I have not received any sexual harassment  
14 complaints.

15 The Department does have a procedure for that.  
16 We have EEO counselors, where the employees -- we have pictures  
17 of these individuals and their work phone numbers, so if a  
18 person feels that they're being sexually harassed, they can  
19 either go to those individuals, talk to these individuals, and  
20 the individuals can come forward. The counselor will come  
21 forward and talk to my chief deputy, who is the EEO coordinator,  
22 and the information is then brought to me.

23 At that point I would notify my Central Office  
24 and let them know that we have a problem, and we can ask for an  
25 outside investigator to come in and do an investigation.

26 Also, you take the time to talk to the employee  
27 to make sure that the employee's okay. Sometimes it may result  
28 in having to move some employees in order for the investigation



1 to be completed, so that the employee does not feel that they're  
2 being -- reprisals are being taken against them.

3 SENATOR HUGHES: Whether it's for the employee or  
4 for the inmate, do you have any planned training?

5 We as Legislators have sexual harassment  
6 workshops, and our employees have those workshops so that we  
7 have become sensitized to the body language or the verbal  
8 language that we might use to an employee to make them feel  
9 harassed, whether in fact they are or not, as some people are  
10 more sensitive to others.

11 Do you have any plans for anything like that?

12 MS. PINKINS: We have scheduled yearly training  
13 for all staff. It's done in block training, where once a year  
14 it's mandatory that staff receive training on how to identify  
15 sexual harassment.

16 We also have a training program for our  
17 supervisors in informing them as to what they need to do in  
18 regards to sexual harassment.

19 SENATOR HUGHES: That's interesting because,  
20 well, maybe your boss doesn't know that you have that. Maybe  
21 you just have it in your institution, since it's all female.

22 How frequently? You say it's once a year, and  
23 are your employees mandated to take this, or do some people come  
24 and some people don't?

25 MS. PINKINS: We have what we call block training  
26 and it's the mandated training for the year, and it's an all day  
27 training. And you have different subjects in the training. We  
28 have different instructors who teach the training.



1 SENATOR HUGHES: What about sexual harassment.

2 MS. PINKINS: Sexual harassment is part of that  
3 training.

4 SENATOR HUGHES: How big a part of it?

5 MS. PINKINS: It's approximately a two-hour  
6 course.

7 SENATOR HUGHES: Two hours?

8 MS. PINKINS: Yes, it's a lesson plan. Well,  
9 initially, the Department did an eight-hour course for all  
10 employees. I believe it's like in '91 or '92, when we had the  
11 sexual harassment big episode at the Department, and it was  
12 mandated that everybody was trained.

13 What we basically do now is a refresher course  
14 just to remind people, to show them how to identify sexual  
15 harassment. And also we have a supervisors training where time  
16 is spent in sexual harassment, telling supervisors this is  
17 sexual harassment and it won't be tolerated.

18 SENATOR HUGHES: Do you think that's sufficient  
19 since you have so many females there?

20 What percentage of your professional staff is  
21 female as compared to male?

22 MS. PINKINS: I don't know. I can't give you a  
23 percentage.

24 SENATOR HUGHES: You have a rough idea. Just  
25 give me a rough idea. How many females do you have to males?

26 MS. PINKINS: I'd say maybe a little over 50  
27 percent females, and that includes the clerical staff also.

28 SENATOR HUGHES: By that, what I'm getting at is

1 not necessarily to just males harass females. Females harass  
2 females, too. So, in your sexual harassment training workshops,  
3 do you include the kinds of situations that a female, or  
4 illustrate the kind of situation where a female could be  
5 sexually harassing another female?

6 MS. PINKINS: Yes, we do, or a male. Females do  
7 harass males. So, we try to use all the examples. We try to  
8 use --

9 SENATOR HUGHES: But your inmates, by and large,  
10 are females.

11 MS. PINKINS: Yes, they are.

12 SENATOR HUGHES: So, you have it both ways.

13 Are you completely satisfied? You've been there,  
14 what, eight months?

15 MS. PINKINS: I've been there eight months.

16 SENATOR HUGHES: Are you completely satisfied  
17 that everything will be all right as you continue your tenure at  
18 this institution? And if per chance something broke out, it  
19 would be a complete surprise to you because you have this once a  
20 year training?

21 MS. PINKINS: No, I'm not 100 percent satisfied,  
22 because I think sexual harassment is something you have to do  
23 continuously. It's something you do every day as you walk  
24 around. You watch people's behavior. You talk to people. You  
25 remind people that the behavior is not appropriate.

26 I'm not just talking about sexual harassment.  
27 I'm talking about any kind of behavior. I think it's important  
28 that supervisors look at behavior, and if it's inappropriate,

1 then we need to do something about it.

2 It's an ongoing task, and you can't say because  
3 you give two hours of training once a year, that it's not going  
4 to happen. It could happen at any moment with the people that  
5 you least likely expect it to happen to, because I've heard  
6 people say, oh, that person would never do anything like that,  
7 and then you find out that they did.

8 So, I think it has to be ongoing. Supervisors  
9 have to be alert. They have to be available. They have to  
10 check behavior when it's inappropriate behavior. They have to  
11 confront the staff and let the staff know that this kind of  
12 behavior is not tolerated. We won't tolerate it. And if you do  
13 it, then you could possibly lose your job. You could lose your  
14 livelihood.

15 And I think that's a message that you have  
16 continuously set out, and people understand that when you start  
17 telling them that they're going to lose their jobs.

18 So, I think it's ongoing and continuously.

19 SENATOR HUGHES: Since you have been a state  
20 employee for many, many years, did you feel that you actually  
21 had any occasion which you felt sexually harassed?

22 MS. PINKINS: Yes, I have.

23 SENATOR HUGHES: What did you do?

24 MS. PINKINS: Well, I'm the kind of person who  
25 deals with it. I spent years in the military.

26 SENATOR HUGHES: Do you know karate?

27 MS. PINKINS: I don't know karate, but I know  
28 crazy.



1           One of the things I think that you have to teach  
2 people is that if someone does something that you don't like,  
3 that you need to pull that person aside and get some  
4 clarification on the behavior, or tell them, I don't like what  
5 you said to me, or I don't like the way you treated me.

6           That's important for me. I think in my career,  
7 I've had people make comments to me that probably could have  
8 been construed as sexual harassment, but I was able to nip it in  
9 the bud at an early stage by just pulling that person aside and  
10 letting them know that I don't like this behavior, and please  
11 don't do it in front of me because I won't accept it.

12           That's been quite effective for me. And when I  
13 deal with my staff, that's one of the things that I tell them.

14           But I am also aware that the person who's being  
15 harassed does not have to say anything. But supervisors, if  
16 they observe that kind of behavior, they have an obligation and  
17 a responsibility to report it, pull that person aside, tell them  
18 that's inappropriate behavior, and tell them to stop.

19           If they don't stop, then we have what we call  
20 progressive discipline where you take the necessary action  
21 against that individual.

22           SENATOR HUGHES: What about the inmate  
23 population. You're talking about your peer group, but what  
24 about the inmate population?

25           Does anyone ever encourage them to report, or are  
26 the inmates fearful of some sort of retaliation? What would you  
27 do to kind of allay any fear that they would have?

28           MS. PINKINS: The inmates at the Northern



1 California Women's Facility know that they can report anything,  
2 because I'm available. I'm on the yard. I walk the yard. I  
3 hold classification every Thursday. I talk to them.

4 They're very comfortable with some of the staff  
5 that we have. If something like that is happening, I don't  
6 think they would hesitate in letting some staff that they  
7 trusted know about it.

8 Like I say, when I go out on the yard, they don't  
9 hesitate to tell me what's going on. And I do that purposefully  
10 so that they feel comfortable enough so that there won't be any  
11 surprises. If something like that's going on, I feel that they  
12 feel comfortable enough to come to me.

13 Also, I feel my staff is comfortable enough  
14 where, if an inmate brought that information to them, that they  
15 would not hesitate to call me or call one of my supervisors, and  
16 we would get on it immediately.

17 SENATOR HUGHES: All right, thank you.

18 CHAIRMAN BURTON: Senator Ayala.

19 SENATOR AYALA: Ms. Pinkins, your prison is one  
20 of the smallest inmate populations. Just barely over 700.

21 What percentage of those are revocations of  
22 parole?

23 MS. PINKINS: Don't quote me on this, but I think  
24 right now I have about -- my population is 763, and my reception  
25 center, which mostly are parole violators, the last I counted  
26 was running about 90, 96.

27 SENATOR AYALA: What percent of those are --

28 MS. PINKINS: About 96 out of 760.

1           SENATOR AYALA: Ninety-six? You're doing much  
2 better than the total system, because the total system in  
3 California is about 80 percent returns in our prisons today. If  
4 it wasn't for those, we wouldn't need additional prisons.

5           Should we view that, and I'm talking about the  
6 total population of returnees, as a failure in our incarceration  
7 programs?

8           We're doing something wrong when you get the  
9 highest percentage in the country of any state -- I understand  
10 there might be another one ahead of us -- of people who return  
11 to prison after being released. We're doing something wrong.

12          Do you have any idea what that is?

13          MS. PINKINS: Well, we're releasing inmates back  
14 into the community, and I've worked the males and females.

15          I think in the female more so than the men, they  
16 don't have viable skills where they can go out and become  
17 gainfully employed. And one of the things when I talk to  
18 inmates is, I tell them that, you know, you need to go out, and  
19 you need to be serious about finding a job.

20          I think sometimes society doesn't hold people  
21 accountable when they are released that they have to find a job,  
22 because many of the people can go out and they can get on  
23 welfare. And I know all of you've heard people say, why should  
24 I work when I can get more on welfare.

25          SENATOR AYALA: What would you consider the  
26 biggest problem within the prison population today in your  
27 prison?

28          MS. PINKINS: I think the biggest problem for the

1 female inmates is self-esteem. They have a very low  
2 self-esteem.

3 I think when you have a low self-esteem, it's  
4 very difficult to go out and find a job. It's very difficult to  
5 feel good about who you are.

6 I think until we can encourage these women to  
7 feel good about themselves, then I think we are going to  
8 continue to have that revolving door.

9 It's no different for me or any other woman  
10 that's not in prison. It's important that you feel -- or any  
11 person. It's important that you feel good about who you are and  
12 what you do. It's no different from staff. If they don't feel  
13 good about themselves, if they don't feel good about what they  
14 do on a daily basis, then they don't do a good job.

15 So, I think the bottom line is getting them to  
16 develop that self-esteem that's needed to go out and feel  
17 confident enough that you're going to get a decent job.

18 SENATOR AYALA: What is the biggest problem in  
19 the prison that you're a warden of is self-esteem?

20 MS. PINKINS: And I'm working on that. One of  
21 the things that I'm doing --

22 SENATOR AYALA: Because we visited a prison just  
23 north of here. Their problem was drugs and homosexuality.  
24 Yours is esteem.

25 MS. PINKINS: No. I have not -- I'm not telling  
26 you that there's not drugs in the prison that I'm in.

27 SENATOR AYALA: You have no drug problems in the  
28 prison you're in?



1 MS. PINKINS: I'm not saying that.

2 I'm saying that, as I mentioned to Ms. Hughes,  
3 that we currently did a large scale drug search, and we utilized  
4 the cadets from the Academy, and we used the dogs from the  
5 Department of Youth Authority.

6 We did find marijuana. And the dog did make 12  
7 hits, and we did urinalysis.

8 Traditionally, we have not found a lot of drugs  
9 in that institution.

10 SENATOR AYALA: So, the men's prisons must be  
11 different from the women's prison?

12 MS. PINKINS: Yes, I think they are somewhat.

13 SENATOR AYALA: Would you explain to the  
14 Committee what is the state smoking policy in state prisons?

15 MS. PINKINS: The policy is no smoking in the  
16 buildings. The inmates are allowed to smoke out on the yard.

17 And if they are caught smoking in the buildings,  
18 the staff has been instructed to write what we call a 115, which  
19 is a disciplinary report. And that report is written, and the  
20 inmate loses what we call good time, where time is taken away  
21 from the inmate.

22 SENATOR AYALA: Are you enforcing that policy?

23 MS. PINKINS: Yes, we do.

24 SENATOR AYALA: There's no smoking within the  
25 enclosed buildings in your prison by the inmates or the --

26 MS. PINKINS: Or the staff, yes.

27 SENATOR AYALA: -- or the correctional officers?

28 MS. PINKINS: Yes. We are enforcing it. If I



1 catch them smoking, you'd better believe I'm going to be talking  
2 to them.

3 SENATOR AYALA: What happens when you find them  
4 smoking?

5 MS. PINKINS: To the inmates or the staff?

6 SENATOR AYALA: Either one.

7 MS. PINKINS: If it's the inmates, there's what  
8 we call, as I said earlier, a 115 is written. The inmate loses  
9 good time. I believe that's a division after you could take up  
10 to 30 days.

11 SENATOR AYALA: You are really enforcing and  
12 implementing the law by executive order that there be no  
13 smoking.

14 Are there cigarettes and tobacco sold at the  
15 prison?

16 MS. PINKINS: Yes, it is sold in the canteen.

17 SENATOR AYALA: We told the federal government  
18 that we are opposed to smoking by the doctors at the highest  
19 level, yet we subsidize the tobacco companies in the south, so  
20 we have a little bit of a problem there that we prohibit smoking  
21 in the prison, but we sell tobacco.

22 And then they take it into the cell with them.  
23 At Norco, we have a real problem that I'm concerned with. The  
24 buildings themselves, they're timber. They're not stucco. And  
25 they smoke in their cell, so if they ever catch on fire, we're  
26 going to have a heck of a lot of liability suits on our hands.

27 Yet the warden knew they were doing it. And in  
28 fact, when people complained, inmates or officers that don't

1 smoke, she transfers them to another institution.

2 I'm trying to get that clear because smoking is  
3 not a life and death penalty. We have people there for murder  
4 and others, but if they can't follow minor regulations like  
5 that, how the heck can they be in charge of an institution?

6 It's been corrected by Mr. Terhune, who called  
7 the Warden and told him, you better knock it off.

8 But I don't know how they can stop it if they,  
9 again, sell tobacco and cigarettes within the grounds. We ought  
10 to stop that.

11 If they want to smoke, it's not my problem. But  
12 my point is, if the Governor's executive order of 1993 said  
13 there shall be no smoking within public buildings, yet they're  
14 allowed to do it, and if anybody complains, they just transfer  
15 them out.

16 In your prison, you really enforce the smoking  
17 prohibition.

18 MS. PINKINS: Yes.

19 SENATOR AYALA: Thank you.

20 MS. PINKINS: You're welcome.

21 SENATOR HUGHES: Mr. Chairman, I have just one  
22 last question.

23 I like the fact that you stress self-esteem. I'm  
24 wondering, how are you at your institution implementing the new  
25 grooming standards?

26 CHAIRMAN BURTON: No beards, no mustaches.

27 [Laughter.]

28 MS. PINKINS: One of the first things we did at

1 our institution when we got word that the grooming standards  
2 were coming down is, we met with the inmates. We have what we  
3 call a WAC, Women's Advisory Council to the Warden. We met with  
4 WAC, who represents the inmate population. We talked to them.  
5 We went, step by step, what the grooming standards, how it would  
6 impact them.

7 One of the concerns the women had was their hair,  
8 gray hair, which I never thought about because I let mine grow  
9 out. But they were concerned about the gray hair because  
10 currently we allow them to dye their hair.

11 We talked to them about it, and they were very  
12 receptive. They didn't feel that they wanted to demonstrate.  
13 We worked with them. I met with them about three or four times  
14 to talk about how we were going to implement.

15 They brought up some very good points. We looked  
16 at the points they brought forward. And some of them were  
17 implemented, and some of them were not, but we explained to them  
18 why we couldn't do it that way, because it's a directive and we  
19 have to follow the directive.

20 We have not had any problems whatsoever. We have  
21 not had any demonstrations. We have not had any inmates saying  
22 they're not going to do it.

23 The biggest problem is, how are we going to  
24 implement, and we're going to utilize them to help us implement  
25 it. And they have been out talking to the inmates, so we have  
26 not had a problem with that.

27 As far as self-esteem, they are concerned that  
28 their hair will be gray, and they won't look as nice. And we've



1 told them that this is a prison, and, you know, we have rules,  
2 and we have to follow the rules, and they accept that.

3 SENATOR HUGHES: That way, you don't have to  
4 worry about green, or yellow, or purple hair?

5 MS. PINKINS: Yes.

6 SENATOR HUGHES: Thank you.

7 CHAIRMAN BURTON: I guess you're not the right  
8 one to ask, but what was the theory behind saying to women they  
9 can't touch up their hair? I mean, like somebody's going to  
10 escape, and they had dark hair, and now they're going to bleach  
11 it?

12 I mean, I can see grooming and that. But if  
13 you're talking to women about whether or not they want to show  
14 their hair gray, or whether to have it dark, I mean, I'm missing  
15 the public safety aspect of that.

16 You could tell people not to have green and  
17 purple hair, but that just seems to me a little bit like a  
18 bizarre deal.

19 I think the grooming thing with the short hair,  
20 and this and that, but I don't even think the Marines tell you,  
21 you can't have it. I mean, Art Agnos, Grecian 21, right? He  
22 used to it pretty good.

23 Do you think that part of the problem with women  
24 getting out, not finding a job, is maybe somebody doesn't want  
25 to hire an ex-con? Because I don't know anybody, if they had  
26 kids, the kids would be in a foster home before.

27 I mean, the theory that somebody could get out  
28 and get on immediately a welfare program, paying them more than



1 minimum wage, all they're eligible for is general relief, which  
2 I think now is about 260 a month.

3 So, I don't think that would be the deterrent as  
4 much as people being leery of hiring somebody who's been in  
5 prison.

6 You only have one facility, but I'm wondering,  
7 one, if when people go out, the institution or somebody tries to  
8 at least aggressively help place people in these job  
9 opportunities, if not positions? And talk to prospective  
10 employers to let them know that this person may have been in the  
11 bucket, but they've rehabilitated or whatever, and give them  
12 some kind of references to the person's behavior while they were  
13 in.

14 Do you do that, or would that be too burdensome  
15 administratively, unless you've got a special person?

16 MS. PINKINS: There are some inmates who parole  
17 and they've worked. I'll give you an example.

18 We have a landscape program, and some of the  
19 inmates do very well. They go out into the community, and we  
20 have had the instructor write letters to them.

21 And I do know of some inmates who have gotten  
22 jobs here in the Sacramento area who were incarcerated in the  
23 Stockton facility.

24 CHAIRMAN BURTON: One last question.

25 Do all the prisons have like a prisoner's  
26 council, like you said, a WAC?

27 MS. PINKINS: Like a WAC, yes. The men have what  
28 we call a MAC, Men's Advisory Committee.

1 CHAIRMAN BURTON: You wouldn't know whether they  
2 were smart enough in all the institutions, when you have  
3 something coming down as new as the grooming code, to sit down  
4 and talk, and say, how do we work through this? So that, all of  
5 a sudden, there's not a rebellion over something like shaving  
6 off a mustache, or cutting hair.

7 To your knowledge, is that SOP?

8 MS. PINKINS: Yes, I think most of the wardens  
9 utilize those committees to get information out to the inmate  
10 population.

11 CHAIRMAN BURTON: Pleasure of the Committee?

12 SENATOR LEWIS: Move confirmation.

13 CHAIRMAN BURTON: Anyone in support or opposition?

14 MR. MABRY: Chairman Burton and the Rules  
15 Committee Members, I'm Roy Mabry, State President of the  
16 Association of Black Correctional Workers.

17 I'm here to give complete support for  
18 confirmation of Warden Pinkins.

19 CHAIRMAN BURTON: Thank you.

20 Is there think other?

21 MR. STOCKER: Thank you. Good afternoon.

22 I'm Gerald Stocker. I'm a facility captain at  
23 the Department of the Corrections, currently working at the  
24 Inmate Appeals Branch.

25 I've been employed with the Department of  
26 Corrections for 23 years. I've known Ms. Pinkins for ten years.  
27 Currently worked for her in different capacities at Sierra  
28 Conservation Center.

1 I know you understand her experience, and I won't  
2 go further with that.

3 But I want to tell you just briefly about  
4 Ms. Pinkins personally. My experience with her, she's always  
5 been of the highest integrity. She's been very forthright, fair  
6 and reliable.

7 I believe she's shown over many years that she  
8 has the character, the correctional knowledge, the managerial  
9 skills, and the ability to lead a prison.

10 Ms. Pinkins is always vigilant with safety and  
11 security issues, with budgetary constraints, and with employee  
12 relations.

13 And I support her fully in her confirmation as a  
14 Warden, and I hope you do, too.

15 Thank you.

16 CHAIRMAN BURTON: Any other?

17 Call the roll.

18 SECRETARY WEBB: Senator Ayala.

19 SENATOR AYALA: Aye.

20 SECRETARY WEBB: Ayala Aye. Senator Brulte.

21 SENATOR BRULTE: Aye.

22 SECRETARY WEBB: Brulte Aye. Senator Hughes.

23 SENATOR HUGHES: Aye.

24 SECRETARY WEBB: Hughes Aye. Senator Lewis.

25 SENATOR LEWIS: Aye.

26 SECRETARY WEBB: Lewis Aye. Senator Burton.

27 CHAIRMAN BURTON: Aye.

28 SECRETARY WEBB: Burton Aye. Five to zero.

1 CHAIRMAN BURTON: Congratulations.

2 MS. PINKINS: Thank you.

3 [Thereupon. This portion of the  
4 Senate Rules Committee hearing was  
5 terminated at approximately 2:42 P.M.]

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1. The first part of the paper is devoted to a general discussion of the problem.

2. The second part is devoted to a detailed analysis of the case.

3. The third part is devoted to a discussion of the results.

4. The fourth part is devoted to a discussion of the conclusions.

5. The fifth part is devoted to a discussion of the prospects for further work.

6. The sixth part is devoted to a discussion of the references.

7. The seventh part is devoted to a discussion of the acknowledgments.

8. The eighth part is devoted to a discussion of the appendix.

9. The ninth part is devoted to a discussion of the bibliography.

10. The tenth part is devoted to a discussion of the index.

11. The eleventh part is devoted to a discussion of the summary.

12. The twelfth part is devoted to a discussion of the conclusion.

13. The thirteenth part is devoted to a discussion of the final remarks.

14. The fourteenth part is devoted to a discussion of the final conclusions.

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30. The thirtieth part is devoted to a discussion of the final conclusions.

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IN WITNESS WHEREOF, I have hereunto set my hand this

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR TERESA HUGHES

MEMBER ABSENT

SENATOR JAMES BRULTE

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

TOM ROSS, Consultant to SENATOR BRULTE

ALSO PRESENT

PHILLIP M. CHRISMAN, Member  
Fish and Game Commission

SENATOR JIM COSTA

SENATOR TOM HAYDEN

BARBARA E. PATRICK, Member  
State Air Resources Board

ASSEMBLYMAN ROY ASHBURN



INDEX

Page

Proceedings ..... 1

Governor's Appointees:

PHILLIP M. CHRISMAN, Member  
Fish and Game Commission ..... 1

    Background and Experience ..... 1

    Support by SENATOR JIM COSTA ..... 3

    Opposition by SENATOR TOM HAYDEN ..... 7

        Spring Run Chinook Salmon ..... 7

        Loss of State Control ..... 8

        Petition for Listing as Endangered ..... 8

        Court Ordered Recovery Program ..... 9

        Governor's Emergency Declaration  
        to Override Endangered Species Act ..... 10

        MR. CHRISMAN's Role as Governor's  
        Spokesperson ..... 10

        Use of Hound Dogs in Hunting Bear ..... 10

        Possible Conflicts of Interest ..... 11

        Carrying Out Illegal Administration  
        Policies ..... 12

        Need for Environmentally Oriented  
        Commission ..... 12

Statements by SENATOR AYALA re:

    Questioning Candidate's Attitude, not  
    Qualifications ..... 13

Questions of SENATOR HAYDEN by CHAIRMAN BURTON re:

    Legally Designated Spokesperson for  
    Governor ..... 14





Questions of MR. CHRISMAN by CHAIRMAN BURTON re:

Recollections of Statements Made on Behalf of Governor Wilson .....	15
Reasons for Blaming Federal Endangered Species Act for 1995 Flooding .....	16
Legality of the '95 Emergency Reg. ....	18
Position on Sacramento Spring Run Chinook Salmon .....	18
Feeling that the Salmon Is in Trouble .....	20
More Wed to Taking of Fish and Game than Enchancement .....	21
Actions against Poaching .....	23
Need to Avoid Appearance of Conflict of Interest .....	24

Questions by SENATOR HUGHES re:

Success of Department in Protecting Fish, Wildlife and Native Plants .....	24
Commission Slant toward Economic Development Due to Lack of Diversity in Membership .....	25
Recommendations to Governor on Policy Direction .....	26

Rebuttal by SENATOR HAYDEN .....

Diversity on Commission .....	27
Vote for Incidental Take Permit on Sacramento Spring Run Chinook Salmon .....	27
Dispute with Commissioner Thieriot regarding Principal Responsibility of Commission .....	28
Emergency Suspension of Endangered Species Act .....	29
Listing of Spring Run Salmon .....	29



1	Motion by SENATOR LEWIS to Move Confirmation	
2	to Floor with No Recommendation .....	30
3	Committee Action .....	31
4	BARBARA E. PATRICK, Member	
5	State Air Resources Board .....	31
6	Support by SENATOR JIM COSTA .....	5
7	Support and Introduction by	
8	ASSEMBLYMAN ROY ASHBURN .....	31
9	Background and Exerpience .....	32
10	Questions by SENATOR HUGHES re:	
11	Disproportionate Effect of Air	
12	Pollution on Minority and Low-Income	
13	Communities .....	35
14	Research on Air Pollution in and	
15	around Airports .....	35
16	Role of ARB in Reducing Air Pollution	
17	in Moderate and Low Income Communities .....	36
18	Questions by SENATOR LEWIS re:	
19	Usage of MTBE as Gasoline Additive .....	37
20	Motion to Confirm .....	38
21	Committee Action .....	38
22	Termination of Proceedings .....	38
23	Certificate of Reporter .....	39





P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Next item, Phillip Chrisman, member of the Fish and Game Commission.

MR. CHRISMAN: Thank you, Senator.

Ladies and gentlemen, my name is Mike Chrisman. I've had the opportunity of appearing once. I'd like to recast my comments very briefly and indicate that I do come from the southern San Joaquin Valley. I'm a fourth generation San Joaquin Valley resident, and I've served in a variety of capacities in state government, in the private sector. And I've spent a great part of my life dealing with natural resources issues.

One of the things that I asked for when I came to the Commission about a year ago was to, if I could, take a look at the Commission's strategic plans, some of the long-term goals and objectives the organization had set. And I found that there was no strategic plan.

So, under my leadership, the Commission has instituted a strategic plan. We're in the process of putting it together now. We've held a couple of public sessions, one workshop in Long Beach, and an extended public input session here in Sacramento.

This plan for us will provide a working document to help guide the Commission in its activities over the next few years. It'll be a working document. It'll be a document that becomes a part of our operations.

Part of that document will be, of course, we'll

1 have a mission and vision statement, and set some priorities,  
2 and do a number of things. But more importantly what it will  
3 do, based on the public input that we've received, based on the  
4 ideas of Commissioners, we're going to be going out and doing  
5 some focus group discussions with some of our constituent  
6 groups, spending some time and going through these issues,  
7 asking some questions that have come out of these earlier  
8 discussions.

9           And out of it, we've identified a number of  
10 issues. The Commission prior to the institution of the public  
11 hearings identified the area of marine resources, endangered  
12 species, roles and responsibilities of individual commissioners,  
13 our budget, and some of our operations to take a close look at.

14           As a result of the public hearings and input that  
15 we received, we heard from the public in a resounding way. What  
16 we heard from the public and essentially our constituent group  
17 is, we got an over whelming endorsement, the validation of the  
18 process that we were going through. Some of the things we  
19 needed to take a look at, we needed to match funding with our  
20 budgets. We needed to think about as a Commission, together  
21 with our constituent groups, we needed to do a resource mission  
22 or vision statement, I should say; take a look at some of the  
23 resource issues in the state and establish a vision statement,  
24 and provide for some public input into that process.

25           One of the key issues we heard over and over  
26 again in this session was the need to build coalitions, to build  
27 community and business partnerships as we moved to try to work  
28 to bring about fish and wildlife enhancement here in

1 California.

2 A couple of things I'd like to see out of this  
3 effort, one being a mission statement that articulates the  
4 Commission's trustee and stewardship responsibility for fish,  
5 wildlife and plant species here in California, consistent with  
6 continued, of course, hunting, and fishing opportunities. A  
7 clear vision, of course, that says that the Commission will be  
8 anticipatory and pro-active in its decision making process, and  
9 a clear commitment to constituent interaction on an ongoing  
10 basis.

11 These are some of the things I've been working on  
12 together with the Commission since I've been there. Senators,  
13 it's a pleasure for me to be here today and stand before you as  
14 a Commissioner.

15 CHAIRMAN BURTON: Senator Costa, I think you  
16 wanted to make some brief comments. I know you have other  
17 business to do.

18 SENATOR COSTA: Thank you, Mr. Chairman, Members  
19 of the Rules Committee.

20 I have two constituents here today that are  
21 before the Rules Committee for confirmation purposes. The first  
22 individual is Mr. Mike Chrisman who has opened.

23 I have known Mr. Chrisman for 24 years and have  
24 worked with him during that time period on a variety of issues  
25 affecting the Central Valley, affecting resource-related  
26 issues.

27 And while he and I obviously are on different  
28 parties, I think what I'm here to tell Members of the Rules



1 Committee is that you have an individual who is a hard worker,  
2 who is extremely sensitive and conscientious, who has the  
3 ability to work with a variety of interests to seek common  
4 ground and to achieve consensus. He takes his job extremely  
5 seriously.

6 He and generations of his family have been  
7 stewards of the land going back to the previous century in  
8 California. And his desire to serve on the State Fish and Game  
9 Commission is one that I know comes from the heart.

10 Our colleague, Senator Hayden, has addressed a  
11 letter to you indicating his opposition to Mr. Chrisman's  
12 confirmation. I would suggest after you hear Senator Hayden's  
13 comment, who is here this afternoon, that you allow an  
14 opportunity for Mr. Chrisman to respond, because I think he has  
15 an ability to do so.

16 I am joined by Senator Pat Johnston and other  
17 colleagues who are supporting Mr. Chrisman's confirmation, and I  
18 believe he would do a good job.

19 Do I believe that he and I will see eye to eye,  
20 or agree on every single issue? No. However, I do believe that  
21 he will be open to all Members of the Legislature in attempting  
22 to achieve consensus and to try to protect California's  
23 resources, not just in the short term but in the long term as  
24 well.

25 For all of those reasons, I would ask you that  
26 you listen from carefully to his confirmation process.

27 Thank you so much.

28 CHAIRMAN BURTON: Do you want to, Senator, in the

1 interest of your schedule, and I saw no real opposition to  
2 Supervisor Patrick, you may want to make your comments on her.

3 SENATOR COSTA: Thank you, I appreciate that.  
4 They're having trouble keeping a quorum in the Housing  
5 Committee.

6 CHAIRMAN BURTON: Maybe we'll keep you here then.

7 [Laughter.]

8 SENATOR COSTA: Doesn't bother me.

9 The second constituent that I have before the  
10 Rules Committee this afternoon is Supervisor Barbara Patrick.  
11 Supervisor Barbara Patrick is before the Rules Committee and for  
12 the Senate for confirmation of the slot on the California Air  
13 Resources Board.

14 I carried the legislation that required that a  
15 member of the San Joaquin Valley Air Resources Control Board  
16 have a permanent seat on the California Air Resources Board, and  
17 the reason for that was simple. The largest geographical air  
18 basin in the state is the Central Valley, the eight counties  
19 beginning in San Joaquin County, going all the way south to Kern  
20 County. It is a unique geographical area of California.

21 And as we attempt to comply with both the federal  
22 and the state clean air requirements, I think it's important  
23 that we have a person from that board, the San Joaquin Valley  
24 Air Resources Control Board, sitting, as does the Bay Area, as  
25 does Southern California, who also have permanent members on the  
26 California Air Resources Board.

27 The legislation obviously was enacted into law.  
28 The previous individual is no longer serving in the capacity

1 where they can represent the Valley air district. The new  
2 person that was selected by her peers is Supervisor Barbara  
3 Patrick, who does a very good job, I believe, in Kern County.  
4 She has worked on a number of different issues. She has been a  
5 conscientious and active member on the San Joaquin Valley Air  
6 Resources Control Board and is their selection to serve on the  
7 State Air Resources Board in that slot that represents the  
8 Valley counties.

9 So, as you indicated, Mr. Chairman, there doesn't  
10 appear to be any significant opposition for her appointment, and  
11 I would ask that you listen to her carefully, and that we  
12 hopefully can confirm Supervisor Patrick so that she can  
13 represent the San Joaquin Valley Air Resources Control Board on  
14 the California ARB.

15 CHAIRMAN BURTON: Thank you, Senator.

16 I have a couple questions.

17 But I wonder if it's easier in the interest of  
18 time -- I don't see any of the other Senators present, but we  
19 have their comments in support -- is that we, instead of asking  
20 some questions here and then hearing from the opposition, and  
21 then going back over questions, I think we could hear from the  
22 opposition, then give you a chance not only to respond to that  
23 but to these questions.

24 Do you have any other people to make statements  
25 here on your behalf? I know we've got the statements of several  
26 Senators and others for the record.

27 MR. CHRISMAN: And others have made statements,  
28 Senator, at the February 2nd hearing for the record, and they



1 are not here today. I had a number of organizations here for  
2 the February 2nd hearing.

3 CHAIRMAN BURTON: Is there anybody here right now  
4 you want to have step up to the plate, or we could have the  
5 written record speak for itself.

6 MR. CHRISMAN: The written record speaks for  
7 itself.

8 CHAIRMAN BURTON: Fine.

9 Opposition, Senator Hayden. Who else? Are there  
10 any other people present in opposition, or they just sent  
11 letters; that's great.

12 SENATOR HAYDEN: Thank you, Mr. Chairman and  
13 Members.

14 I appear here today, I'm sorry to say, in  
15 opposition to Mr. Chrisman on the merits, but also to call  
16 attention to the need for some reform of the Fish and Game  
17 Commission.

18 The Fish and Game Commission has been involved in  
19 a number of controversies over the past two or three years that  
20 raise questions as to whether or not they're primarily on the  
21 side of resources and the environment, or whether they are  
22 trying to carry out an administrative agenda that puts  
23 development interests, in many cases, ahead of their official  
24 obligations in the law.

25 A case in point that does involve the Commission  
26 in general and Mr. Chrisman in particular is the issue of spring  
27 run Chinook salmon, which was in the headlines last week  
28 because, after years of petitioning, the federal government has



1 begun the process of listing these species of salmon in the  
2 Sacramento Delta as endangered, as well as it should.

3 This would not be the first time that a run of  
4 salmon has become extinct. It's very a painful and difficult  
5 thing to watch the foot-dragging. The numbers of the fish are  
6 down to incredibly low levels.

7 The federal government finally acted because,  
8 after a number of years, the state government did not. So, we  
9 have an environmental issue here, but also a loss of state  
10 control of this program to the federal government.

11 In the case of the Commission, I brought a  
12 petition that was 41 pages single-spaced a couple of years ago  
13 to the Commission, asking that the spring run Chinook be  
14 identified as a candidate for listing, which is a very slow  
15 process. Nothing happens at first. If it gets identified as a  
16 candidate, a year goes by to plan a recovery.

17 The petition, 41-page petition, and I emphasize  
18 the weight of it to show how hard it is to get these petitions  
19 into shape, was supported by the wardens and by the staff of the  
20 Department that I had met the criteria for these fish to be  
21 listed as a candidate species.

22 We had not one, not two, not three, but many more  
23 hearings of the Commission, during which time they rejected the  
24 petition and over road the opinion of their own qualified  
25 biologists and experts. Finally, we went to court on more than  
26 one occasion. We won consistently in court. The court  
27 basically found the Commission to be dragging its feet on the  
28 issue, and demanded that there be a listing and a recovery

1 program.

2 Now, a recovery program requires Commission  
3 action also. So, when the Commission was ordered to do this,  
4 they immediately wrote in a permit giving an exemption that  
5 allowed business as usual while these fish declined last winter,  
6 this winter.

7 There's no doubt that what ever we think of the  
8 issues, about the environment, and about the salmon, that we  
9 ought to have the Commission in compliance with court orders in  
10 spirit and, indeed, rather than doing everything it can to  
11 circumvent them and drag its feet, because that simply brings  
12 the extinction of the fish nearer.

13 Mr. Chrisman was there and voted for the business  
14 as usual exemption, the 20-84 permit. This is after hours upon  
15 hours upon hours of testimony, and over the original finding of  
16 the Department staff, as I say.

17 Secondly, I have to indicate this wasn't the  
18 first time that Governor Wilson's appointees have tried to go  
19 around the meaning of the environmental laws, endangered species  
20 laws, only to be told they can't do that by the courts.

21 You may remember a couple of years ago the  
22 Governor used the argument that there was an emergency so great  
23 in the State of California during the winter rains that there  
24 had to be a suspension of the law. And they went in, and they  
25 tore out a lot of vegetation and habitat for species in certain  
26 of our rivers.

27 A coalition of ten or twelve environmental groups  
28 sued the Governor, sued the administration, and won on the

1 grounds that there was no basis in law for the emergency  
2 declaration, that it was simply used as a pretext to destroy  
3 habitat and destroy the environment using the winter storm as  
4 the argument rather than going to the Legislature for support in  
5 law.

6 Mr. Chrisman was the Governor's spokesperson  
7 during that period, blaming the Endangered Species Act for  
8 getting in the way of protecting Californians against the  
9 floods. So, that's the second time where there's been an  
10 administration policy that was found to be outside the law that  
11 directly involved Mr. Chrisman.

12 There are some other examples of this pattern.  
13 I'll just give you one other that's not a question of law but a  
14 question of orientation.

15 You will remember Senator Petris and others have  
16 been trying to do something about the issue of whether you use  
17 dogs to pursue bears in hunting. A previous Director of Fish  
18 and Game, Boyd Gibbons in 1993, according to Sacramento Bee  
19 article, and I'm quoting, "had ignited a firestorm of protest  
20 from hunters because he announced that he personally opposed the  
21 use of hound dogs in hunting bear. The Wilson administration  
22 sent Michael Chrisman, deputy secretary of the Resources Agency,  
23 to the committee on Tuesday to make it clear that the  
24 administration opposed the bill and believes the use of dogs  
25 does not threaten the health of the bear population."

26 Whatever you think about use of dogs to hunt  
27 bear, the case in point here shows again that even when the head  
28 of the Department expresses a personal philosophical and policy



1 point of view, if it's not in accord with the Governor's point  
2 of view, he will send Mr. Chrisman to go around even the head of  
3 the Department.

4 Now, a couple of questions of credibility here  
5 ought to be brought up, then I will finish.

6 In 1995, in the spring, you will remember there  
7 was a controversy or scandal involving Mr. Voss and the  
8 Department of Agriculture. In the course of that investigation,  
9 there were a number of newspaper articles. I'm going to quote  
10 from one on May 5th, 1995, from the Sacramento Bee.

11 "Top state Department of Food and Agriculture  
12 officials who haven't followed state law and formally removed  
13 themselves from possible conflicts of interest say they have  
14 abided by an internal 'honor system' for 16 years. But records  
15 show the Department's number two and number three officials have  
16 signed documents and traveled at taxpayers' expense to meetings  
17 on the Continent Cattle Industries. Both men have disclosed  
18 that they received personal income from those sources during  
19 that period. The internal documents call into question the  
20 Department's honor system and create another embarrassing flap  
21 for Governor Wilson as he strives for the ..." blah, blah,  
22 blah.

23 Coming to the point, "Undersecretary Michael  
24 Chrisman, who disclosed that he received more than \$270,000 from  
25 a Tulare County cattle ranch run by his wife, said he,  
26 'inadvertently' signed the order appointing 14 people to the  
27 California Beef Council. One is a former business partner of  
28 Chrisman's and another is an acquaintance. Asked why he didn't



1 delegate those actions to others who don't earn income from  
2 cattle, Chrisman said that's a fair question, but I don't see  
3 this as a conflict."

4 I bring this up because it's recent. It's not  
5 old news, and because when I brought these issues of being a  
6 spokesman for the Governor's position on the Endangered Species  
7 Act up to Mr. Chrisman in my meeting with him a few weeks ago, a  
8 very civil and fair discussion of his view and mine, he said  
9 that he had no recollection of having been the Governor's  
10 spokesperson.

11 I had to go into the files to bring out material  
12 showing that he had been the spokesperson on events that  
13 occurred only a couple of years ago which were major, major  
14 events in the history of this debate about the Endangered  
15 Species Act.

16 So, Mr. Chairman, I'm obviously here because I'm  
17 a passionate defender of the environmental laws, and I chair a  
18 committee whose job it is to look at those issues.

19 But from the point of view of qualifications, I  
20 have serious reservations about the attitude that Mr. Chrisman  
21 has taken toward the law on a number of occasions where the  
22 courts have found administration policy that he was carrying out  
23 to be illegal.

24 And I think that we need at this point a more  
25 environmentally oriented Fish and Game Commission that will at  
26 least step up to the plate and work in partnership with  
27 environmental organizations and with the federal government on  
28 questions like what to do with the spring run Chinook.

1 Thank you for your time and patience.

2 I'm sorry, Mr. Chrisman, to bring these up. I  
3 know it's painful, but I hope you'll understand that it's my job  
4 and my philosophy that compels me to do so. Nothing  
5 personal.

6 CHAIRMAN BURTON: Thank you, Senator.

7 Any other representatives here from Sierra? Animal  
8 groups?

9 Senator Ayala.

10 SENATOR AYALA: I think that Senator Hayden is  
11 questioning the qualifications of Mr. Chrisman to serve on that  
12 committee.

13 I look at the other members who are now serving.  
14 Although he is listed as a regional manager of Southern  
15 California Edison, he has a Bachelor of Science Degree in Plant  
16 Science, and a Master of Science Degree in Agriculture  
17 Education.

18 He's as qualified as any of the others who happen  
19 to be presidents of corporations.

20 I guess you're questioning his attitude about the  
21 laws?

22 SENATOR HAYDEN: Right.

23 SENATOR AYALA: I'll tell you what, Senator  
24 Hayden, I got a fly in my district that surfaces one month out  
25 of the year. I don't know what purpose it serves.

26 I'll trade that for Chinook on the endangered  
27 species list.

28 SENATOR HAYDEN: I believe that's the flower

1 loving fly.

2 CHAIRMAN BURTON: That's the one. We can build a  
3 plant that would put 800 people to work. The fly serves no  
4 purpose. We'll transfer it to your district and you can protect  
5 it.

6 SENATOR HAYDEN: All right.

7 CHAIRMAN BURTON: I guess I'd ask, on being the  
8 Governor's spokesperson, was he like this spokesperson in law,  
9 i.e., I, Governor Wilson, designate this person to be my  
10 spokesperson? Or did it happen to be they see things eye to  
11 eye?

12 In other words, he was carrying the Governor's  
13 water because the Governor said carry the water, or that's his  
14 point of view and they see eye to eye, and he'd be saying that  
15 anyway?

16 SENATOR HAYDEN: Right. He was the  
17 undersecretary at the time.

18 All I can refer to is the prominent role he  
19 played in this controversy during the rains, and whether to  
20 blame the Endangered Species Act. He was the spokesperson on  
21 the flooding in Monterey County. He said that, "agencies and  
22 landowners have been denied the permits needed to go in and  
23 clean up Pajaro River and Salinas River channels. Any  
24 impediment that will back up water, like trees, runs the  
25 potential of floods. That's what happened here."

26 "Chrisman said the Wilson administration is  
27 'pushing hard' to work out agreements with their federal  
28 counterparts."

1                   And quote, "We have unforgiving Endangered  
2 Species Act. We need to streamline the regulatory process."

3                   That seems to me to be something that one would  
4 remember, since it occurred in March, 1995.

5                   CHAIRMAN BURTON: One, I'd like you to address  
6 the spring run Chinook salmon.

7                   Two, you really didn't remember when that was  
8 your job to say that stuff? How can you not remember it? That  
9 was probably your job, to get out and say it.

10                  I mean, I remember the deal only because I  
11 remember -- and I can't remember now whether it was George House  
12 or Pete Fresetta -- but I remember the issue being discussed on  
13 day on the Floor of the Assembly, and I don't even pay attention  
14 to stuff.

15                  So, how would you not remember making a  
16 statement?

17                  MR. CHRISMAN: When he asked me whether I  
18 remembered, I said, my response to the question was that I can't  
19 imagine that I would say something like that. I really didn't  
20 remember being interviewed.

21                  When I got the article, I obviously remembered,  
22 and remembered the individual questions, and remembered what led  
23 up to it.

24                  Let me characterize it, if I might, Senator, by  
25 saying that this occurred at a time, obviously when I was  
26 Undersecretary at Food and Agriculture, a time when the state  
27 was going through some very, very significant flood events,  
28 particularly in that area.



1           It happened -- it was happening at a time when,  
2 reading my comments, my comments go specifically to the federal  
3 act itself, and our inability at the time to get the federal  
4 agencies to the table to try to help us get the permits  
5 necessary to get in and clean up after the floods.

6           Essentially, my personal view is that the Act did  
7 not cause -- did not cause the floods. What happened is that we  
8 had an inability of the regulatory agencies and the landowners  
9 to come together over an extended period of time, many, many  
10 years, to design flood control measures in that area.

11           CHAIRMAN BURTON: Was that your point of view at  
12 the time?

13           MR. CHRISMAN: Yes.

14           CHAIRMAN BURTON: I'll tell you, nobody in the  
15 administration said it. I can remember. I guess that was  
16 Monterey, probably more in Pete's area than George House's, but  
17 I can, you know, I can remember his standing up on the Floor  
18 during the debate on the bill. Everybody was blaming that  
19 which, in certain segments of our society, is a very unpopular  
20 thing, the Endangered Species Act, because it kind of tells  
21 people they can't do stuff the way they used to do it. That was  
22 the story that was being put out, and people that didn't know  
23 any better, or wouldn't know, said, well, Christ, if they're  
24 saying it, it must be true.

25           If you knew at the time that wasn't the case, I  
26 know you've got to follow orders because you're working for the  
27 Governor, but why would you have said stuff that you didn't --

28           MR. CHRISMAN: Senator, what I said was, we were

1 trying to get the federal agencies to deal with it in the short  
2 term, to deal with cleaning up these flood channels. That's  
3 what we were trying to do.

4 Subsequently, we've had some subsequent action on  
5 behalf of, the following year, from the federal government,  
6 thanks to Secretary Babbitt and Deputy Secretary Garamendi, set  
7 up a hotline the following year. We have just recently --

8 CHAIRMAN BURTON: I'm going back. I think I'm  
9 going back to the incident. We've got differing opinions on  
10 this Committee in the Senate and within the Democratic caucus  
11 and Republican caucus. Although, I think more Democrats see one  
12 way and more Republicans see the other way.

13 But the concerns going back to that point, that  
14 you knew that that wasn't the problem, then why did you buy into  
15 the deal, then just feed the fire?

16 And there are some things wrong, if not, in my  
17 judgment, with the Act necessarily, but the way the Act is being  
18 implemented. And some things are being implemented in stupid  
19 ways, I think, by bureaucrats that are trying to undermine the  
20 Act because people can point to it.

21 I just wonder why you felt compelled not to say  
22 that's not really the reason as I see it, or why were you  
23 jumping on board on the others that were using this as a thing  
24 to basically --

25 MR. CHRISMAN: Because my role at the time was  
26 try to work to try to get the federal agencies at the table to  
27 deal with it, try to get these permits and get the flood  
28 channels cleaned out.

1 CHAIRMAN BURTON: I think you could have done  
2 that. I don't think that statement helped you in doing that.

3 Can you tell us something about when you went for  
4 the emergency reg., you or the Governor did, but the Governor  
5 and the emergency permit stuff, did your lawyers say, hey, this  
6 probably isn't legal? Did anybody ask?

7 MR. CHRISMAN: I wasn't part of those meetings,  
8 Senator, so I don't know.

9 CHAIRMAN BURTON: If you were on the Fish and  
10 Game Commission, if you get confirmed, and somebody has to do  
11 something that seems to be, you know, taking a big step, does it  
12 not make sense to say to the attorney, where are we here?

13 MR. CHRISMAN: Right. We do that almost every  
14 meeting with a lot of the decisions.

15 CHAIRMAN BURTON: Do you follow the attorney's  
16 advice?

17 MR. CHRISMAN: Yes, we do.

18 CHAIRMAN BURTON: Or do you say, let's go ahead,  
19 and by the time they get a restraining order, we would have  
20 cleared all the guck out.

21 Comment, please, if you could, on the salmon.

22 MR. CHRISMAN: Spring run salmon, Sacramento  
23 spring run Chinook salmon, I was appointed to the Commission  
24 almost a year ago now, March. I was not on the Commission when  
25 the Commission initially rejected the petition.

26 I was on the Commission subsequent when my first  
27 votes that I took was to list the candidacy of the Sacramento  
28 spring run Chinook salmon.



1 I was supportive and continue to be supportive of  
2 the incidental take permit, the 20-84 that Senator Hayden spoke  
3 to. It's a statute that allows for the accidental take of a  
4 species during candidacy. Accidental take by anglers, by people  
5 who are lawfully pumping water, State Project water and  
6 others.

7 Essentially what the incidental take permit  
8 allows is for that accidental taking just during the  
9 twelve-month period of candidacy.

10 We will, as a Commission, be reviewing the  
11 petition from the Department. The Department of Fish and Game  
12 will be coming to us, I think, in June to recommend to us  
13 whether or not their investigation during candidacy merits a  
14 listing either threatened and/or endangered of the Sacramento  
15 spring run Chinook salmon.

16 We have as a part of our ongoing operations as  
17 we're in candidacy, we've asked and have gotten a monthly update  
18 from the Cal-fed operations group, which is a group set up under  
19 the Delta Accord whose main responsibility is to monitor  
20 fisheries, the restoration of fisheries in the Delta. And  
21 pursuant to our listing of candidacy, the Cal ops group have  
22 reported to us on a regular basis, and have said to us, reported  
23 to us on the goings on of the Sacramento spring run, the various  
24 testings that have taken place through the sampling that has  
25 taken place.

26 CHAIRMAN BURTON: What's your gut feeling? Do  
27 you think it's a problem?

28 MR. CHRISMAN: Do I think the species is in



1 trouble? I do think the species is in trouble, Senator, yes.

2 CHAIRMAN BURTON: Do you think action should be  
3 taken?

4 MR. CHRISMAN: Again, we will, in June, pursuant  
5 to the law, we will take a look at the petition. We'll review  
6 the petition. We will listen to the public comment.

7 CHAIRMAN BURTON: So I understand, in other  
8 words, it would be like a judge in a murder trial, you can't say  
9 anything until you hear everything?

10 MR. CHRISMAN: Right. That's exactly right.

11 CHAIRMAN BURTON: You can't say anything --

12 MR. CHRISMAN: I can tell you because it was  
13 apparent --

14 CHAIRMAN BURTON: In other words, I don't know  
15 what the proprieties are.

16 But if you say it's in trouble --

17 MR. CHRISMAN: By supporting candidacy, I said it  
18 was in trouble, I thought.

19 CHAIRMAN BURTON: It's in trouble, and if action  
20 isn't taken, it may --

21 MR. CHRISMAN: I'm not ready to say that yet  
22 until I see the data coming from the Department, the final data  
23 that they're collecting through this candidacy.

24 CHAIRMAN BURTON: What is your definition of  
25 trouble?

26 MR. CHRISMAN: Well, again, the definition of  
27 trouble is if the species is in jeopardy. In other words, by  
28 numbers if the species is in jeopardy and is -- has the

1 potential of either threatened or going extinct.

2 CHAIRMAN BURTON: And you admitted you thought  
3 personally it was trouble, so I guess if there's no action  
4 taken, it might go the way of the --

5 MR. CHRISMAN: But Senator, we will take action  
6 one way or the other, having gone to candidacy, I think in  
7 August of this year.

8 CHAIRMAN BURTON: You will take action one way or  
9 another. That's like you say, how am I doing in committee?  
10 Well, we'll take action one way or another.

11 A concern that's been expressed by those that did  
12 not take formal opposition is such -- and these are my words,  
13 not theirs -- but you seem to be more wed to the taking of fish  
14 and game than to the enhancement of fish and game.

15 MR. CHRISMAN: Not the case. Let me go back.  
16 Let me talk about -- a little bit about my background and my  
17 commitment to natural resource protection of fish and wildlife,  
18 if I can.

19 As you all know, as I said earlier, I come from a  
20 farming, long-time farming and ranching family in the San  
21 Joaquin Valley.

22 CHAIRMAN BURTON: Your grandfather never had to  
23 bother with any of these regs; did he?

24 MR. CHRISMAN: He never did.

25 CHAIRMAN BURTON: It was just, dam up that crik.

26 MR. CHRISMAN: Never had to deal with any of  
27 them.

28 CHAIRMAN BURTON: Life was easier.

1 MR. CHRISMAN: But what I have done over the  
2 years is, we look at our operation. The stewardship activities  
3 that we've undertaken in our own operation, I think, are  
4 exemplary.

5 Issues that I've been involved with as a citizen,  
6 issues of farmland protection. Issues of protecting prime  
7 agricultural land across California is an issue that I've been  
8 involved with for the last 25 years as a county planning  
9 commissioner, as one who's actively supported issues of farmland  
10 protection in the San Joaquin Valley. I'm currently actively  
11 involved in a group that is trying to put together a consensus  
12 based approach from agriculture to deal with the issue of  
13 conserving agricultural land.

14 And when I -- to equate that to fish and wildlife  
15 protection --

16 CHAIRMAN BURTON: I'm the only guy here that  
17 voted for the Williamson Act, so I know about preserving land,  
18 which is not really relevant to what I asked.

19 MR. CHRISMAN: Let me connect that now, if I  
20 might, to fish and wildlife.

21 Fifty percent of the land here in California is  
22 in private ownership. And essentially, anything that we can do  
23 to conserve and protect that valuable land resource also should  
24 conserve and protect valuable fish and wildlife resource.

25 We've got a long ways to go. I'm not here to  
26 tell you that the job is done.

27 What I am here to tell you is, my record and my  
28 commitment to building coalitions across environmental groups,

1 across landowner groups, is there.

2 I've also been very supportive when I worked with  
3 Bill Jones, very supportive in the creation of the San Joaquin  
4 River Conservation Parkway along the San Joaquin River. When  
5 the Nature Conservancy came in to Tulare County, the Kwee Oaks  
6 Preserve, very actively involved in helping to bring that  
7 about.

8 Now that the Conservancy has turned it over to a  
9 local land trust, I'm involved in that.

10 CHAIRMAN BURTON: Okay, you don't answer it, but  
11 I understand it.

12 Two other things. You have, I think, the Fish  
13 and Game -- and I got into this God knows why -- dealing with  
14 abalone and other stuff about the poaching.

15 MR. CHRISMAN: Yes.

16 CHAIRMAN BURTON: What kind of action would you  
17 support?

18 Wasn't that a great hearing, the abalone deal?

19 SENATOR HAYDEN: Enjoyed it very much,  
20 Mr. Chairman.

21 CHAIRMAN BURTON: What kind of actions can you or  
22 would you take on the problem of poaching of some of these more  
23 ocean resources?

24 MR. CHRISMAN: I think my record will show since  
25 I've been on the Commission I have very little tolerance to  
26 poaching, to the breaking of the Fish and Game laws. I've  
27 consistently been one to come down hard.

28 CHAIRMAN BURTON: Would you be supportive if it



1 was indicated, and I think Thompson finally got one, but like  
2 moratoriums on certain species?

3 MR. CHRISMAN: Yes, I voted on the abalone issue.

4 CHAIRMAN BURTON: One last thing, which is just a  
5 piece of free advice, which will be worth what you pay for it.

6 But on the point raised by Senator Hayden, where  
7 the appearance of the conflict, because I assume that your wife  
8 owning that farm, it didn't come from her grandfather. It  
9 probably came from yours. I know how you have to do that, but I  
10 just think you just have to really understand that there may be  
11 certain times where you're going have to take a pass --

12 MR. CHRISMAN: I understand that.

13 CHAIRMAN BURTON: -- on something that gives  
14 either the fact or the appearance of a conflict.

15 And then, can you comment, because I didn't  
16 clearly understand it, but like \$250,000? Oh, that was just  
17 income from your wife?

18 MR. CHRISMAN: Yes.

19 CHAIRMAN BURTON: That's your family business.

20 MR. CHRISMAN: Yes.

21 CHAIRMAN BURTON: Any other questions from  
22 Members of the Committee? Senator Hughes.

23 SENATOR HUGHES: This will be brief.

24 In your opinion and your association with the  
25 Commission, and what the Department has done or not done, do you  
26 think that the Department has really been successful in  
27 protecting our fish, wildlife and native plants, or do you think  
28 they've really failed?

1 MR. CHRISMAN: Tough question.

2 I don't think -- first of all, let me say, I  
3 don't want to characterize the Department and/or Commission's  
4 action with respect to protecting fish and wildlife as a failure  
5 or a win.

6 Let me say that it goes, from my perspective, we  
7 have a burgeoning population in the state that's putting the  
8 fish and wildlife resource, natural resource base, under  
9 increasing pressure.

10 The challenges to protect that valuable resource  
11 have never been greater. The challenges of helping the  
12 Department, working in concert with the Department, working in  
13 concert with the biologists, working in concert with our  
14 constituent groups to bring about habitat restoration, if you  
15 will, fish and wildlife restoration, I think, have never been  
16 greater.

17 I think that the Department itself is doing an  
18 admirable job under very difficult circumstances in a state  
19 that's growing by leaps and bounds.

20 SENATOR HUGHES: Do you think that one of the  
21 problems might be, or might not be, the fact that there's little  
22 diversity in the membership, and because of this lack of  
23 diversity in background in these areas, that everything has been  
24 more slanted to the economic development side?

25 MR. CHRISMAN: You mean on Commission membership?

26 SENATOR HUGHES: Yes.

27 MR. CHRISMAN: If you look -- if you look at the  
28 Commission membership now, there are five of us. You have one

1 member who is the former president of the Nature Conservancy,  
2 strong environmental background. That's Mr. Boren.

3 You have one member who is the former publisher  
4 of the San Francisco Chronicle, sportsman, pretty strong  
5 environmental background.

6 You have myself, business and farming  
7 background.

8 You have Mr. McGeoghegan from Maxwell, farming  
9 background.

10 And you have Mr. Weggeland, the newest member  
11 from Riverside coming from a business and development  
12 background.

13 I guess what I'm saying to you is that the five  
14 members, on balance, are a pretty eclectic group, have a pretty  
15 -- come at the issue from a very diverse background, very  
16 diverse points of view.

17 I think the Commission is well served by the  
18 existing diversity on the Commission.

19 SENATOR HUGHES: What are going to be your  
20 recommendations if the Governor asks you for policy directions?  
21 Will you pursue them as a Commissioner and recommend certain  
22 things to the Governor? And what things would you recommend to  
23 the Governor?

24 MR. CHRISMAN: I think the important thing to  
25 remember on a Commission like this is independence. I think in  
26 order for a Commission like the Fish and Game Commission to be  
27 effective, we have got to be independent.

28 SENATOR HUGHES: Would you really recommend that

1 to the Governor, because the Governor is the appointing  
2 power?

3 MR. CHRISMAN: Yes, yes, I would.

4 Does that answer your question, Senator?

5 SENATOR HUGHES: Yes.

6 MR. CHRISMAN: Thank you.

7 SENATOR HAYDEN: Mr. Chairman, might I just  
8 respond briefly on a couple of these points?

9 CHAIRMAN BURTON: Sure.

10 SENATOR HAYDEN: On the issue of the diversity on  
11 the Commission that Senator Hughes brought up, the reference to  
12 Frank Boren is reference to the only person there that has been  
13 trying to comply with the law and vote in favor of the  
14 Commission moving ahead.

15 If I heard him correctly, Mr. Chrisman said he  
16 voted for listing, the candidate listing.

17 MR. CHRISMAN: The candidate listing right after  
18 I got on the Commission.

19 SENATOR HAYDEN: There was a vote for candidate  
20 listing that you participated in?

21 MR. CHRISMAN: Yes, there was.

22 SENATOR HAYDEN: In any event, that was court  
23 ordered or court pressured.

24 I recall Mr. Chrisman voting for the incidental  
25 take permit.

26 MR. CHRISMAN: I voted for candidacy on June 13th  
27 last year, and then I did vote, as I indicated, for the  
28 incidental take permit.



1                   SENATOR HAYDEN: Mr. Boren has been the strongest  
2 supporter.

3                   Mr. Thieriot was brought up. I was very  
4 concerned about that gentleman's appointment to the Commission,  
5 so I'm not here extolling his credentials, but here's a sample  
6 of the testimony and argument on December 3rd, 1997, between  
7 Mr. Thieriot and Mr. Chrisman. It goes on and on. It's a very,  
8 very frontal dispute.

9                   But essentially Commissioner Thieriot says:

10                  "What I'm saying," to Mr. Chrisman, "I think that  
11 the language does say the following: 'The people of California  
12 have vested in the Department of Fish and Game the principal  
13 responsibility,'" underlined. "That means that I think you are  
14 supposed to put that responsibility above all other  
15 responsibilities including your balance with socio-economic  
16 concerns."

17                  Mr. Chrisman, Commissioner Chrisman: "It doesn't  
18 say that though."

19                  Commissioner Thieriot: "But I think it does. It  
20 says 'the principal responsibility' that means your number one,  
21 your first."

22                  Commissioner Chrisman: "I've already said it's  
23 my first ... but it doesn't preclude me then from factoring in  
24 socio-economic activities in making my decision."

25                  Commissioner Thieriot: "Factoring in is another  
26 way of saying compromise. So what you're saying is that as you  
27 read it, it's not inappropriate for you to compromise your  
28 number one goal in pursuit of a purpose that isn't even

1 referenced in the Act."

2 With respect to the emergency issue, this was a  
3 heck of an emergency. I just want to remind you that the  
4 Governor declared a five-year emergency suspension of the  
5 Endangered Species Act that could be enacted by any local entity  
6 in the State of California without any evidence being necessary  
7 except a certification that there was an emergency in their  
8 opinion.

9 The question from the Chair to Mr. Chrisman was;  
10 "Did you support that," as if the question was narrowly meant to  
11 mean, were you in a room to decide that?

12 The answer was, "I wasn't in the meeting."

13 But if the question construed more liberally was,  
14 did you support that, the answer would be Mr. Chrisman obviously  
15 supported that and was a spokesperson for it until the courts  
16 threw it out.

17 With respect to the salmon, the federal  
18 government has now listed the salmon, taking the matter out of  
19 our hands when it could have been in our hands if the Commission  
20 had supported the petition two or three years ago.

21 To say he'll be reviewing what the Department has  
22 to say in June means another season has gone by, the second, and  
23 there has to be some credibility here, Mr. Chairman, forgive me,  
24 because the original recommendation of the Department was to  
25 list the fish. Something has now happened where the Department  
26 staff has backed, reconnoitering and developing new data about  
27 whether to list the fish, unsatisfied with the first data.

28 And the court was satisfied with it. They said

1 you have to do this. Satisfactory.

2 This is stalling in the name of all deliberate  
3 speed. And you cannot stall around questions of extinction.

4 The incidental take permit means you can  
5 continue killing the fish indefinitely. If you stall long  
6 enough, the fish will be extinct.

7 What they've already done is damaged their  
8 reputation with the environmental community, found guilty of  
9 noncompliance with the law in more than one court decision, and  
10 now the federal government is taking it away from them when it  
11 should be in state hands.

12 Those are just clarifications and responses to  
13 the witness's testimony.

14 I would urge the Committee to reject.

15 CHAIRMAN BURTON: Senator Brulte, who is ill, was  
16 willing to get out of sick bed and fly up to be here. There was  
17 a decision made that I don't think that that was proper, and so  
18 there will be no recommendation, but it will be moved to the  
19 Floor for the Floor to work its will.

20 SENATOR LEWIS: So move.

21 CHAIRMAN BURTON: That motion made by Senator  
22 Lewis.

23 You can call the roll.

24 SECRETARY WEBB: Senator Ayala.

25 SENATOR AYALA: Aye.

26 SECRETARY WEBB: Ayala Aye. Senator Hughes.

27 SENATOR HUGHES: Aye.

28 SECRETARY WEBB: Hughes Aye. Senator Lewis.

1 SENATOR LEWIS: Aye.

2 SECRETARY WEBB: Lewis Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Four to zero.

5 CHAIRMAN BURTON: So, it's to the Floor.

6 SENATOR HAYDEN: Thank you.

7 MR. CHRISMAN: Thank you, Senators.

8 CHAIRMAN BURTON: Supervisor, Mr. Ashburn wanted  
9 to make a brief introduction, and Senator Costa's remarks were  
10 already on the record.

11 ASSEMBLYMAN ASHBURN: Thank you, Mr. Chairman,  
12 Senators.

13 I'm very happy to be here today to introduce to  
14 you and to express my strong support for Barbara Patrick.  
15 Barbara Patrick is member of the Kern County Board of  
16 Supervisors. She represents Kern County on the San Joaquin  
17 Valley Unified Air Pollution Control District, and she is  
18 uniquely qualified for the California Air Resources Board.

19 I had the privilege and pleasure of serving with  
20 her on the County Board of Supervisors for two years. In that  
21 relationship, one gets to know their colleagues very well. And  
22 I know that Barbara Patrick is a person of integrity, someone  
23 who does her homework, is very diligent, and who is very direct  
24 in speaking her mind.

25 I also know that Barbara Patrick is a fair  
26 person, someone who will take a look at the issues, especially  
27 in this capacity as they relate to air quality issues, and make  
28 decisions which are well grounded in the scientific evidence and



1 which I believe will be fair for all concerned.

2 So, I would urge your favorable consideration for  
3 Barbara Patrick's confirmation.

4 CHAIRMAN BURTON: I don't see it on the list  
5 here, but the one that got me was the Kern Country Tree Planters  
6 Association.

7 MS. PATRICK: The Tree Foundation.

8 ASSEMBLYMAN ASHBURN: That's our environmental  
9 group.

10 CHAIRMAN BURTON: I understand that. And that  
11 counter-balanced you and Costa, so she's back at even.

12 Supervisor, please.

13 MS. PATRICK: Thank you very much, Assemblyman  
14 Ashburn.

15 It's really a pleasure for me to be here today.  
16 I'm very honored to have this opportunity to introduce myself to  
17 you and to acquaint you with my experience in public office and  
18 my commitment to the quality of California's air.

19 After teaching for twenty years in the  
20 Bakersfield City School District, I was elected to the Kern  
21 County Board of Supervisors in 1994. And then, in 1997, I was  
22 appointed by our Board to serve on the San Joaquin Valley  
23 Unified Air Pollution Control District, where I serve as the  
24 Chairman of a policy committee for the San Joaquin Valleywide  
25 Air Pollution Study Agency.

26 I'm very proud of the scientific information that  
27 is coming out of the Study Agency, and this information has been  
28 used by the Valley Air District to help further emission

1 controls in a cost effective manner.

2           The Study Agency includes representatives from  
3 agriculture, from industry, from the Air Resources Board, EPA,  
4 as well as the Valley Air District. And it's an excellent  
5 example of varied interests coming together to combine their  
6 talents and achieve common goals.

7           I grew up in the Los Angeles Basin, and so I'm  
8 well aware of the ground haze that used to be in that area in  
9 the 1950s and '60s. That haze was not only responsible for  
10 respiratory problems of the folks who lived there, but also it  
11 was an adverse impact to the entire environment. Fortunately,  
12 with the passage of the federal and state Clean Air Acts, and a  
13 lot of hard work by all parties, California's air is getting  
14 cleaner.

15           In my short tenure on the Air Resources Board, I  
16 have been very impressed by the prudence and the diligence that  
17 is shown by the staff. Staff have proven that they're committed  
18 to clean air. And in pursuit of this goal, they take the extra  
19 steps needed to ensure the recommended controls are grounded in  
20 sound scientific principles.

21           In addition, they understand that diverse  
22 interests must have a voice in cleaning the air. And this  
23 approach promotes support for control measures which achieve  
24 federal and state air quality goals.

25           To protect the air that we breathe today and  
26 tomorrow, I believe that all constituents, environmentalists,  
27 regulatory agencies, businesses and industry, need to work  
28 together. They need to commit themselves to finding mutually

1 agreeable solutions to very complex challenges. For these  
2 solutions to be effective, they must be balanced and  
3 scientifically based.

4 Since assuming office in 1994, I have served on  
5 numerous committees which deal with contentious concerns, and I  
6 continue to be impressed by the solution-oriented attitude that  
7 is present in our communities and in our state. Common sense,  
8 resourcefulness, and the spirit of cooperation usually prevail.

9 I'm very optimistic about the future of  
10 California's air quality, and I maintain that optimism because  
11 our knowledge of air pollution is growing every day, and I've  
12 seen the energy that occurs when concerned individuals come  
13 together.

14 I also believe that we all have a commitment as  
15 Californians to make sure that the air quality is better than it  
16 was when we were growing up.

17 Should you confirm my appointment to the Air  
18 Resources Board, I would work diligently, responsibly, and in  
19 partnership with all interests to improve air quality in the  
20 State of California.

21 I'll be happy to answer any questions that any of  
22 you might have.

23 SENATOR LEWIS: Thank you very much, Supervisor.  
24 Senator Hughes.

25 SENATOR HUGHES: Thank you very much for being  
26 here today.

27 Do you think that this concern that we have with  
28 the disproportionate effect of air pollution and other



1 environmental hazards on minority and low-income communities is  
2 justified, or is it just something that you're not ready to deal  
3 with?

4 MS. PATRICK: I think that we have to be  
5 concerned about the air quality for all Californians.

6 I know that recently there has been a ten point  
7 initiative that the South Coast Air District has come forward  
8 with to study just the kinds of issues that you're talking  
9 about.

10 ARB is doing more monitoring of that, of that  
11 concern, to find out if indeed there is scientific basis to see  
12 if that is true.

13 So, I think it's very important that we keep an  
14 eye on it, and at the same time that we're moving forward with  
15 the kinds of initiatives that clean the air for all  
16 Californians, like the reformulated gasoline and the cleaner  
17 cars and so forth.

18 SENATOR HUGHES: A portion of my Senate district  
19 is adjacent to LAX. Do you know of any research that has been  
20 done regarding air pollution in and around an airport?

21 MS. PATRICK: I'm unaware of any, but I do know  
22 that that would be something that would be regulated by the  
23 federal government, and so that certainly is something that we  
24 may be looking forward to in the future, because that's an  
25 important part of our state implementation plan.

26 SENATOR HUGHES: I was just curious as to whether  
27 their pollution would be greater within a certain number of  
28 miles from an airport, and whether ARB is looking at this.



1                   Certainly, in terms of new developments, and as  
2 new housing and businesses go up, will this be a concern of your  
3 agency?

4                   MS. PATRICK: I don't know specifically that  
5 there's anything in the works, but I think it's something that  
6 certainly should be looked at because we need to know where our  
7 air pollution is the worst so that we can then come up with  
8 mitigating factors.

9                   SENATOR HUGHES: Certainly we know it's worse in  
10 low income, because they're driving vehicles that do a pretty  
11 good job of polluting the air because they're not vehicles that  
12 are well kept, and they're not in the best of condition. So,  
13 this is a blatant reality that's a sad thing that we certainly  
14 have to deal with in low and moderate income areas.

15                  MS. PATRICK: Yes.

16                  SENATOR HUGHES: What do you see as the role of  
17 the ARB in that regard? How can they be helpful to cutting down  
18 on this air pollution, because these are the people who will  
19 probably not be the great environmentalists. They are the  
20 people who are so concerned about bread and butter issues, the  
21 air quality is not the problem. It's just a dry day when they  
22 can drive to their job in their pickup trucks to get some  
23 employment or to provide transportation for their families.

24                  MS. PATRICK: As I mentioned in my opening  
25 statement, I was teacher for Bakersfield City Schools for 20  
26 years, so I'm well aware of the kinds of neighborhoods that you  
27 are speaking of.

28                  I think it's important that we be committed to

1 all Californians and in every neighborhood.

2 I that think one of things that will come out of  
3 this initiative by the South Coast is to find out if, indeed,  
4 there are scientific basis for this, and to come up with  
5 reasonable solutions that we can make sure that there is no  
6 neighborhood that had unjustly -- that unjustly suffers because  
7 of this.

8 SENATOR HUGHES: So, this is your commitment?

9 MS. PATRICK: It certainly is one of my  
10 commitments, yes.

11 SENATOR HUGHES: Thank you.

12 SENATOR LEWIS: Supervisor, like other things in  
13 life, sometimes there's trade-offs when you deal with pollution  
14 control strategies.

15 One of the things we did recently was the usage  
16 of MTBE as an additive, and now there seems to be increasing  
17 concern about groundwater contamination.

18 Do you have any thoughts you want to share with  
19 us about that controversy right now?

20 MS. PATRICK: Certainly.

21 I think MTBE is certainly an issue that's of  
22 concern to a lot of different folks. I think it's important to  
23 remember that the State of California was not the group that  
24 said we were going to use MTBE. But rather, they set a certain  
25 standard, and the oil refiners decided that in order to meet  
26 that standard, that they would use MTBE.

27 It's an oxygenate, and oxygenates are required by  
28 the federal government. And ARB is supportive of legislation

1 by Senator Feinstein and I think it's Senator -- Representative  
2 Bilbray who are dealing with asking the federal government if we  
3 can dispense with the use of oxygenates in California.

4 Did I answer your question?

5 SENATOR LEWIS: Yes, thank you.

6 Any other questions from Members of the  
7 Committee?

8 CHAIRMAN BURTON: Move approval.

9 SENATOR LEWIS: Is there anyone in the audience  
10 wishing to testify in behalf of the nomination? Anyone in the  
11 audience wishing to testify in opposition or share concerns?

12 We have a motion do pass. Please call the roll.

13 SECRETARY WEBB: Senator Ayala.

14 SENATOR AYALA: Aye.

15 SECRETARY WEBB: Ayala Aye. Senator Hughes.

16 SENATOR HUGHES: Aye.

17 SECRETARY WEBB: Hughes Aye. Senator Lewis.

18 SENATOR LEWIS: Aye.

19 SECRETARY WEBB: Lewis Aye. Senator Burton.

20 CHAIRMAN BURTON: Aye.

21 SECRETARY WEBB: Burton Aye. Four to zero.

22 SENATOR LEWIS: Congratulations.

23 MS. PATRICK: Thank you.

24 [Thereupon this portion of the  
25 Senate Rules Committee hearing was  
26 terminated at approximately 2:50 P.M.]

27 --ooOoo--  
28

CERTIFICATE OF SHORTHAND REPORTER


I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

3<sup>rd</sup> day of March, 1998.

  
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APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

TOM ROSS, Consultant to SENATOR BRULTE

ALSO PRESENT

RANDOLPH L. CANDELARIA, Warden  
California State Prison, Wasco

SENATOR JIM COSTA

ROY MABRY, State President  
Association of Black Correctional Workers

FRANK R. SEARCY, President  
Chicano Correctional Workers Association

ANTONIO C. AMADOR, Member  
Public Employment Relations Board

SENATOR RICHARD POLANCO

SALLY A. RAKOW, Member  
State Air Resources Board

SENATOR HERSCHEL ROSENTHAL

ROBERT H. TOURTELOT, Member  
California Horse Racing Board





INDEXPage

Proceedings ..... 1

Governor's Appointees:

RANDOLPH L. CANDELARIA, Warden  
California State Prison, Wasco ..... 1

Background and Experience ..... 1

## Questions by CHAIRMAN BURTON re:

Length of Stay for New Inmates  
at Reception Center ..... 7

Suggestions for Changes in Current  
Classification Process ..... 7

ADA Problems ..... 8

Drug Trafficking within Institution ..... 9

Warden's Awareness of Drugs in Facility ..... 10

## Questions by SENATOR AYALA re:

Handling Overcrowding ..... 10

Policy to Handle Drug Trafficking ..... 11

Classification Level of Prisoners ..... 12

Arrival of New Prisoners without  
Records ..... 12

Implementation of New Grooming  
Standards ..... 13

Smoking Policy ..... 14

Support by SENATOR JIM COSTA ..... 16

Witnesses in Support:

ROY MABRY, State President  
Association of Black Correctional Workers ..... 18

FRANK R. SEARCY, President  
Chicano Correctional Workers Association ..... 18

Motion to Confirm ..... 19

Questions by SENATOR HUGHES re:

Commitment to Protect Employee Witnesses Who Testify at Hearings .....	20
---	----

Questions by SENATOR AYALA re:

Large Numbers of Prisoners with Parole Revocations .....	23
---	----

Requests by CHAIRMAN BURTON re:

Types of Parole Violations .....	24
----------------------------------	----

Committee Action .....	25
------------------------	----

ANTONIO C. AMADOR, Member Public Employment Relations Board .....	25
--	----

Introduction and Support by SENATOR RICHARD POLANCO .....	25
--	----

Background and Experience .....	27
---------------------------------	----

Questions by SENATOR HUGHES re:

PERB's Experience with Charter Schools .....	28
--	----

Recognition of Charter School Employees .....	28
---	----

Position on Legislation to Include Charter School Employees in Act .....	28
---	----

Questions by CHAIRMAN BURTON re:

Board Position on Legislation .....	29
-------------------------------------	----

Motion to Confirm .....	30
-------------------------	----

Committee Action .....	30
------------------------	----

SALLY A. RAKOW, Member State Air Resources Board .....	30
---	----

Introduction and Support by SENATOR HERSCHEL ROSENTHAL .....	31
---	----

Background and Experience .....	31
---------------------------------	----

Questions by SENATOR HUGHES re:

Suggestions for Speeding Process of Evaluating and Regulating Toxics .....	33
---	----

Diesel Exhaust as Toxic Air Contaminant .....	35
--	----

1	Motion to Confirm .....	35
2	Committee Action .....	36
3		
4	ROBERT H. TOURTELOT, Member California Horse Racing Board .....	36
5	Background and Experience .....	37
6	Letter of Support from Pari-Mutuel Employees Guild, Local 280 .....	38
7	Questions by CHAIRMAN BURTON re:	
8		
9	Suggestions to Save Horse Racing .....	40
10	Questions by SENATOR AYALA re:	
11		
12	Rumor of Santa Anita Phasing Out .....	42
13	Motion to Confirm .....	43
14	Committee Action .....	44
15	Termination of Proceedings .....	44
16	Certificate of Reporter .....	45
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		





P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Antonio Amador, member of the Public Employment Relations Board. Not here yet.

Randolph Candelaria, Warden, Wasco State Prison. Do you want to come up, sir. They all like you down in the valley.

MR. CANDELARIA: Thank you, sir.

CHAIRMAN BURTON: What did you do to a guy up in Siskiyou County? Were you stationed up in Siskiyou at one time?

MR. CANDELARIA: Never.

CHAIRMAN BURTON: Go ahead, sir.

MR. CANDELARIA: Good afternoon, Senators. My name is Randolph Lee Candelaria. I stand before you today with the hope that you'll confirm me as the Warden of Wasco State Prison Reception Center.

I would like to share with you today a brief history of who I am and why I feel I merit your consideration. I also understand that you have a copy of my resume; therefore, I will only touch upon some of the highlights of my career.

I'm a life-long 24-year-plus employee of the California Department of Corrections. I've spent approximately 7 years at the California Institution of Men, from 1974 to 1981. I worked as a correctional officer and correctional sergeant. While there I worked all levels of custody, from maximum security to minimum.

In 1980, I was fortunate to compete for the correctional lieutenant's exam. I was a very successful

1 candidate. I was number one candidate in the State of  
2 California, with an overall cumulative score of 99 percent.

3 I was promoted to the California Rehabilitation  
4 Center in March of 1981 as a correctional lieutenant. That  
5 started a little bit of the diversity of my training, where I  
6 was actually able to function at the Rehabilitation Center in a  
7 therapeutic civil addict environment. While there, I was the  
8 Training Administrator, Administrative Assistant to the Warden,  
9 Public Informations Officer to the Warden, Employee Relations  
10 Officer to the Warden, and the Training Administrator also.

11 In 1983, I was once again promoted to  
12 Correctional Counselor II there at CRC, where I stayed until I  
13 was promoted to the Parole Division in April of 1984 to a Parole  
14 Agent II re-entry special agent.

15 In 1985, I returned to the Institutions Division  
16 as a custody captain at CIW, the California Institution for  
17 Women in Frontera. At that time, the diversity of the prison  
18 was, it was the only women's prison at that time in California.  
19 We were about 400 percent above capacity. We had about 2700  
20 women in a facility that was built in the early '50s for 600  
21 women.

22 In October, 1984, I returned to the Parole  
23 Division once again, promoting to Parole Agent III. I opened  
24 the office in Santa Fe Springs, now known as Santa Fe Springs I,  
25 II and III.

26 In April of 1988, I was promoted to Parole  
27 Administrator. I was basically the territorial administrator of  
28 everything south of Orange County to Mexico, and everything from

1 the Pacific Ocean to Arizona.

2 In May of 1992, I was promoted to Deputy Regional  
3 Administrator in Los Angeles. That was the day of the infamous  
4 Rodney King riots, May 1st of 1992. I stayed in Los Angeles for  
5 a period of four years, getting a diverse exposure to law  
6 enforcement and the parole function. I was there during the  
7 Rodney King trial. I was there during the Kum Pow trial, the  
8 Simpson trial, the earthquakes, and everything else that could  
9 go wrong in Los Angeles, I was there.

10 In May of 1996, I was approached by the  
11 Department if I would think of going to Corcoran. I went home  
12 and talked to my wife about that. I think she could see the  
13 gleam in my eye, and she knew we were moving to Corcoran. I  
14 arrived at Corcoran July 1st of 1996. For a period of about  
15 four months, I was both the interim, acting, and Chief Deputy  
16 Warden until the new administrative team came in.

17 CHAIRMAN BURTON: Were you there during a lot of  
18 the unpleasantness at Corcoran?

19 MR. CANDELARIA: No, sir. I got there after the  
20 unpleasantness.

21 It was still somewhat difficult running the  
22 prison, but the things that happened, happened earlier in '93,  
23 '94, prior to my arrival.

24 Then in August of 1997, once again I was  
25 promoted. I was appointed by the Governor on August 14th to  
26 assume the command at Wasco State Prison Reception Center. I've  
27 been there about seven months.

28 Along with this extensive 24-year experiences



1 within the Department, I also recognized that I needed a good  
2 education, so I returned to the local junior college there in  
3 Rancho Cucamonga, Chaffey Junior College in 1974. I received an  
4 AA degree in 1976, then was accepted into a program at the  
5 University of Redlands, where I received a degree in  
6 Organizational Management. I also have a lifetime junior  
7 teaching credential, and I'm an adjunct professor at Porterville  
8 College.

9           Keeping these career practicums and academic  
10 accomplishments in mind, I believe that now I should talk about  
11 management style. I look at myself as being a hands-on manager,  
12 and I have a belief with that kind of outlook towards your  
13 staff, they will follow you.

14           My primary introduction to management supervision  
15 was taught by a cadre of drill instructors at Ford Ord,  
16 California, when I was 19 years old. I was also privileged to  
17 attend the Noncommissioned Officers Academy at Fort Benning,  
18 Georgia, the Military Command Leadership Academy at Harmony  
19 Church, Fort Benning, Georgia.

20           I'm a Vietnam veteran. I was a noncommissioned  
21 officer and proudly served with the elite 101st Airborne  
22 Division in the Republic of South Vietnam.

23           Because of my service to my country, I was  
24 awarded by order of the President the Combat Infantryman's Badge  
25 and a Bronze Star for gallantry and meritorious service against  
26 enemy forces of the United States of America. Also hanging on  
27 my wall next to my Bronze Star Certificate is a letter of  
28 appreciation signed by the President of the United States for my

1 service to the country.

2 Based on this, I've kind of always been a  
3 hands-on team concept supervisor, manager. I believe in  
4 involving my staff, the appropriate staff members. I believe in  
5 discussion. I believe including all specialized programs and  
6 specialized staff, and contacting departmental headquarters when  
7 necessary.

8 I also accept a lot of input and information from  
9 my peer management group, and I dialogue with other wardens when  
10 needed.

11 I make the best possible decisions I can, and  
12 prior to implementation, the most difficult decisions of running  
13 a prison, I contact supervisors, and share, and review, and seek  
14 their consultation.

15 I believe strongly in empowering my staff and  
16 delegating authority to them so they can complete their  
17 respective tasks.

18 I firmly believe in holding people accountable.  
19 I have laid the primary foundation for these actions the staff  
20 need to take, and that the management of Wasco Prison can truly  
21 appreciate. I believe in effective and good communications.  
22 It's my belief that communications is the basis of all  
23 orientations, so I meet personally with every new group of staff  
24 members at Wasco for the orientation process, where I set the  
25 groundwork for a good custody, good security, good safety. And  
26 a real highlight now being emphasized by all of us is  
27 communication with our staff and the inmate population.

28 I have ongoing meetings with my staff. I meet

1 early morning, late at night, during the middle of the day.  
2 It's important that I get feedback on my performance, because  
3 that's where I will take the prison in the direction, the needs  
4 [sic] and it needs to take, is the needs I learn from these  
5 ongoing discussions with my staff. "Come follow me," is the  
6 message I send out to my staff.

7 I've basically worn all the shoes, from  
8 correctional officer to warden. I've been given the opportunity  
9 to follow, and this truly has enhanced my ability to lead.

10 I do not have to tell my staff who I am. They  
11 know by the example that I set. I am the Warden, and I'll make  
12 every effort to provide a safe, clean, working environment for  
13 them.

14 In closing, I kind of wrote this to share with  
15 you who Randolph Lee Candelaria is and what I stand for. It's  
16 important that I think this prestigious Senatorial Committee  
17 should know about me without looking at a resume that says I'm  
18 like a lot of people, and yet uniquely different by this  
19 presentation.

20 On a final note, I think it's important I  
21 recognize the people that get a person to this chair. That  
22 would start with my wife, Rose, of course, and then our four  
23 adult children, and my grandson, and with me today are my  
24 parents.

25 CHAIRMAN BURTON: Why don't they all stand.

26 [Applause.]

27 CHAIRMAN BURTON: Any questions from Members of  
28 the Committee?



1 I guess I have a couple brief ones. When  
2 somebody comes into the Reception Center, how long does it take  
3 to send them where they should be?

4 MR. CANDELARIA: Ideally, we're on a 30-day  
5 process. From the day they get to us from one of 11 counties we  
6 serve, within 30 days, the best case scenario is, they're on the  
7 road to --

8 CHAIRMAN BURTON: How are you doing on the best  
9 case scenario?

10 MR. CANDELARIA: We're in real good shape.

11 CHAIRMAN BURTON: Pretty good shape?

12 MR. CANDELARIA: I'm at about 42 days, if I took  
13 across the norm of all.

14 CHAIRMAN BURTON: In other words, 30 days is what  
15 it should take to do it right?

16 MR. CANDELARIA: Yeah, best case scenario, if you  
17 get a local guy from a local county, you can pick up everything  
18 you need.

19 CHAIRMAN BURTON: Do you have any changes that  
20 you would recommend to the Director, on changes in the current  
21 classification process? Do you think it's pretty good, or do  
22 you see stuff that you think should change and you suggest  
23 that?

24 MR. CANDELARIA: Well, I have two-fold, because I  
25 have a Reception Center. About 4500 of my population are  
26 transients; they're in route. So, as far as that initial  
27 classification, I think it works real well. It's a study. It's  
28 a science that some of us have been involved in for about 25



1 years, and that works real well.

2 I also have about 1400 general population inmates  
3 who do the work at my prison, and the classification level for  
4 them is the Level III. So, the system does work, but with  
5 positive behavior and time in custody, the classification system  
6 as practiced, we do a lot of classification in my prison. I'm  
7 looking at reducing the custody, therefore reducing costs.

8 On just the opposite, for negative behavior, it  
9 can raise the custody, and they can go to a Level IV facility.

10 CHAIRMAN BURTON: What are you doing to solve the  
11 ADA problem, disabilities?

12 MR. CANDELARIA: Once again, being a Reception  
13 Center, I have some ADAs. I'm set to handle the visually  
14 impaired, the hearing impaired, mobility. Most of those are  
15 Reception Center cases. At this time I've got four hearing  
16 impaired in my Reception Center. I have nine wheelchaired  
17 gentlemen that are being processed. We're not geared for  
18 wheelchair, so routinely we can send those over to North Kern,  
19 but because of the overcrowding at some of the prisons, I'm  
20 feeling that we're handling those.

21 We move them along. Basically my GP, my general  
22 population yard is a work yard, so I can have some people that  
23 are hearing impaired or vision impaired, and we put them in a  
24 yellow little jumpsuit so that my staff know this.

25 CHAIRMAN BURTON: I was thinking more mobility  
26 impaired.

27 MR. CANDELARIA: At my prison, very little, sir,  
28 because of fact of what my mission is.

1                   CHAIRMAN BURTON: How about the effectiveness of  
2 steps taken to reduce drug trafficking within the institution?

3                   MR. CANDELARIA: We do a masterful job. Since  
4 I've been there, since got there in August, we've made four  
5 very, very serious drug arrests of staff members. I have an  
6 Investigative Service Unit. That's basically what their job is.

7                   We track visitors. We monitor phones. We censor  
8 some mail to the degree the federal government allows us to.  
9 We've got a real good drug case there where we arrest a lot of  
10 people.

11                   Wonderful, wonderful relationship with district  
12 attorney so that if we pursue it, they prosecute.

13                   CHAIRMAN BURTON: You said you had four busts of  
14 institutional staff?

15                   MR. CANDELARIA: Very significant. One  
16 Correctional Counselor II --

17                   CHAIRMAN BURTON: What were they? Guards? Cooks?

18                   MR. CANDELARIA: No, all levels. As a matter of  
19 fact, one was a supervising counselor involved in some drug  
20 problems in the community. Based on her involvement with her  
21 husband, we terminated that employee, and she's at the SPB now,  
22 appealing my decision.

23                   One was a medical tech, falsely entering  
24 medication that he was giving somebody and taking himself. I  
25 have him on administrative leave now.

26                   CHAIRMAN BURTON: Well, they seem like people  
27 that are screwing up themselves.

28                   How about people that are dealing or providing

1 drugs to the inmates?

2 MR. CANDELARIA: I have one lady that I'm  
3 looking at now. I just put her off grounds on administrative  
4 leave. I will terminate her. I had her arrested. She is  
5 currently in the Kern County Jail. Her family's very upset with  
6 her and unwilling to assist her.

7 But as far as anything else, no, not for sale or  
8 for involvement with inmates.

9 CHAIRMAN BURTON: So, there's not much drug  
10 trafficking within the institution?

11 MR. CANDELARIA: Not that I'm aware of.

12 CHAIRMAN BURTON: Would you be aware of it if it  
13 was happening, by and large?

14 MR. CANDELARIA: I'd better be. I have a lot of  
15 staff there. We're manned 24 hours a day, 7 days a week, with  
16 supervisors and managers. And we're all within driving distance  
17 back to the prison, and we're always in communication on things  
18 like that.

19 CHAIRMAN BURTON: No further questions.

20 SENATOR AYALA: I have a question.

21 Mr. Candelaria, the Wasco State Prison designed  
22 for 2,984 beds.

23 MR. CANDELARIA: Yes, sir.

24 SENATOR AYALA: Currently you have 5600 people in  
25 that prison.

26 MR. CANDELARIA: This morning I had --

27 SENATOR AYALA: That's 186 percent over capacity.  
28 How do you handle that?



1 MR. CANDELARIA: This morning I had 5,729  
2 inmates. As of this morning, I have 5,729 inmates. I'm at 188  
3 percent of my design capacity.

4 SENATOR AYALA: How do you handle that  
5 overcrowding condition?

6 MR. CANDELARIA: Very gingerly. It's important  
7 that my staff be safety conscious. It's important that my staff  
8 follow the protocol and move those men out as quickly as  
9 possible and safely as possible.

10 SENATOR AYALA: The Chairman mentioned to you the  
11 drug problem that exists in our prisons, which I know you can't  
12 stop it completely, but you mentioned earlier what you were  
13 doing to handle it.

14 What is the policy you have there to handle these  
15 drug trafficking to the prisons?

16 MR. CANDELARIA: The key to dealing with drug  
17 interdiction with staff is a good professional code of peace  
18 officer standards, where we monitor each other, we watch each  
19 other, we communicate. It's very important.

20 I have a very small cadre of what we call  
21 Investigative Service Unit. That's primarily their job, is,  
22 they're the law enforcement arm for me inside the prison. So,  
23 we do the monitoring of mail, visiting, communication on  
24 telephones, those kind of things.

25 I don't know, Senator, if Wasco's used dogs  
26 before, but they haven't since I've been there, and I've been  
27 there seven months.

28 SENATOR AYALA: What classification of prisoner



1 do you have at Wasco?

2 MR. CANDELARIA: I have a Reception Center.  
3 About 4500 inmates are Reception Center. They're in-and-outs.

4 SENATOR AYALA: I'm asking if they're level I,  
5 II, III, or IV?

6 MR. CANDELARIA: No, the Reception Center can be  
7 anything.

8 SENATOR AYALA: That's everything.

9 MR. CANDELARIA: We don't know --

10 SENATOR AYALA: They just go to the Reception  
11 Center, and from there you direct them to other prisons?

12 MR. CANDELARIA: Yes. I also have a Level III  
13 general population.

14 SENATOR AYALA: You keep them there for 30 days?

15 MR. CANDELARIA: They should be processed in and  
16 out in about 30 days.

17 SENATOR AYALA: Do many inmates arrive at your  
18 prison without his jacket of records?

19 MR. CANDELARIA: They arrive with nothing, sir.  
20 They're brand-new commitments routinely. They're coming from  
21 the county jails, basically, with the minute orders that the  
22 judge sentenced them.

23 It's my staff's responsibility to put that file  
24 together and get the paper process going.

25 SENATOR AYALA: That's what happened at one point  
26 in the Chino prison, where the gentleman arrived -- I call him a  
27 gentleman for lack of a better term -- arrived without his  
28 jacket. They put him out in the --

1 MR. CANDELARIA: Yes, sir. I was working at  
2 Chino at the time.

3 SENATOR AYALA: He escaped and murdered some  
4 people. So now it was Senator Presley that insisted that before  
5 you folks receive anyone, that the records be accompanying that  
6 individual that comes into your prison.

7 The new grooming standards. Have you started  
8 that at your prison?

9 MR. CANDELARIA: Yes, Senator, very  
10 successfully. My prison implemented on January 1st the Level I  
11 inmates, which are the minimum support facility inmates.

12 I actually have an academic program where I was  
13 able to make a video, and on the TV program I was able to direct  
14 what was happening to my inmate population, what my expectations  
15 would be, and how we'd go about that.

16 So, on January 1st of this year, we were in  
17 compliance 100 percent on the Level I.

18 On March 1st, we were moving them right along  
19 with the Level III general populations. And as of last  
20 Wednesday morning, there were about 200 inmates who were still  
21 kind of recalcitrant, but we've moving along.

22 We also did the Locks of Love Program. We found  
23 an organization in Florida, so the gentlemen that have the  
24 longer hair, the braided hair, that hair is being donated for  
25 children for wigs that they make for children undertaking  
26 chemotherapy, cancer, leukemia, et cetera. So, that's been  
27 very positive for my staff and my inmate population.

28 SENATOR AYALA: How long have you been

1 implementing that program, since the first of the year?

2 MR. CANDELARIA: The first of the year for the  
3 Level Is.

4 SENATOR AYALA: Any problems at all with that?

5 MR. CANDELARIA: None whatsoever, sir.

6 SENATOR AYALA: How about the smoking problem?

7 MR. CANDELARIA: That's no problem either,  
8 because I implemented the law. As soon as I got there, I  
9 reissued the departmental policy on smoking to staff and  
10 inmates. We have no smoking problems at Wasco State Prison.

11 I've also volunteered to become a smoke-free  
12 prison if that's what they'd like for us to do, because we have  
13 policies where the inmates and staff do not smoke inside  
14 buildings. My staff do not smoke in state cars, et cetera. And  
15 we have an agreed-upon area of five feet from any door where  
16 staff members can smoke outside.

17 The inmates don't smoke in any buildings. The  
18 only approved area is the recreation yard area only.

19 SENATOR AYALA: Do they take their tobacco and  
20 matches into the cells?

21 MR. CANDELARIA: Yeah, yeah. Not matches. They  
22 buy little Bic lighters from our canteen.

23 SENATOR AYALA: Are you afraid they might set  
24 their mattress on fire and that sort of thing, like they do in  
25 other prisons?

26 MR. CANDELARIA: They could, sir, most  
27 definitely, but we have not had that problem at Wasco.

28 SENATOR AYALA: How are you going to stop them



1 unless you don't sell the material out in the store and so  
2 forth?

3 MR. CANDELARIA: That's where I'd like to go with  
4 it. As a matter of fact, I'm looking into a product now where  
5 they have electric strikers, and some of the institutions are  
6 putting them on the yard, where you eliminate matches and the  
7 little flick of the Bic type things.

8 SENATOR AYALA: If you allow them to take their  
9 tobacco and their matches, or whatever, into their cells,  
10 they're going to light up when they get the urge. If you write  
11 them up, big deal. So what.

12 What happens when you write them up?

13 MR. CANDELARIA: The thing with running a prison  
14 is, if you establish policy and procedure and adhere to it,  
15 there is a disciplinary process. And if they violate that  
16 process, it's a negative behavior. We deal with it on a  
17 progressive manner.

18 Some inmates, because of their behavior, don't  
19 want to stay at Wasco. We can raise their custody as well as  
20 lower it.

21 So, that has not been a problem, sir.

22 SENATOR AYALA: But the no smoking policy is not  
23 giving you any problems?

24 MR. CANDELARIA: No.

25 SENATOR AYALA: Eventually it'll be no smoking,  
26 period, as some county jails already have that without any  
27 problems at all.

28 MR. CANDELARIA: Not at all. That's what I'm



1 looking at now, as a matter of fact. I would like to look at  
2 maintaining my Reception Center as a completely smoke-free  
3 environment.

4                   You're right, sir. Many of the county jails have  
5 gone to smoke-free. So, they don't smoke in the county jail.  
6 They get to my prison or any Reception Center and start lighting  
7 up again. I'd like to take that challenge on.

8                   SENATOR AYALA: Thank you.

9                   CHAIRMAN BURTON: Senator Costa, then people in  
10 support who can just show up and testify to his qualifications  
11 so we can confirm the Warden.

12                   SENATOR COSTA: Thank you very much, Mr. Chairman  
13 and Members of the Senate Rules Committee.

14                   Very briefly, I've worked with this individual  
15 for a number of months since he was moved to the Wasco  
16 facility. Obviously, he has a career that is before you that, I  
17 think, clearly demonstrates his ability to perform to the degree  
18 we would all like to see our wardens perform in the various  
19 correctional facilities throughout the state.

20                   But in an ever-changing world, I believe Ron has  
21 the abilities to make the sort of transformations that I've just  
22 heard discussed by Senator Ayala and others of you.

23                   The point Senator Ayala raises in a Reception  
24 Center such as Wasco is a good one. The courts send these wards  
25 from throughout the state, and I have personally visited the  
26 records department of the Wasco facility and looked and the  
27 difficulty of the lack of information coming from the courts as  
28 to whether or not these various inmates are at the various

1 levels, whether or not they have substance abuse problems,  
2 whether or not they belong to gangs, whether or not they have  
3 other problems that might determine where, in fact, they ought  
4 to be assigned.

5 So, Senator Ayala, I'm glad you raised that  
6 particular point. It's a difficult challenge, and one that they  
7 are attempting to address in Wasco.

8 I would also add one other point. I don't know  
9 if it was raised prior to my coming here. The Wasco facility  
10 and this Warden are attempting to try to assist local school  
11 districts. Just last fall, we presented over, I believe it was  
12 40 computers to the Allensworth School District. This is a  
13 small little rural school district that had no computers prior  
14 to this. They refurbished these computers that are donated to  
15 them, and this facility with this Warden's effort, attempts to  
16 try to provide those much needed computers to local schools for  
17 the benefit of those children.

18 That's just but one way. There is a program that  
19 we are going to work on for Christmas that will provide gifts  
20 for children that otherwise wouldn't have anything under their  
21 tree.

22 I only mention that because when you have eight  
23 facilities in your district, such as I do, the relationship  
24 between these facilities and the communities is important. This  
25 is a gentleman who is cognizant of that fact.

26 I would urge you to confirm his appointment to  
27 the Warden of the Wasco State facility.

28 CHAIRMAN BURTON: Thank you, Senator.

1 People in support, name and organization, please.

2 MR. MABRY: Good afternoon, Chairman Burton,  
3 Rules Committee Members.

4 My name is Roy Mabry, State President,  
5 Association of Black Correctional Workers. I'm here today  
6 representing our membership in 199 percent support for  
7 confirmation for Mr. Candelaria as Warden at Wasco State  
8 Prison.

9 CHAIRMAN BURTON: Thank you, sir. Next.

10 MR. SEARCY: Good afternoon, Senator and  
11 Committee Members.

12 I am Frank R. Searcy, President of the Chicano  
13 Correctional Workers Association.

14 And I think we are going to have beat ABCW.  
15 We're like 300 percent behind Mr. Candelaria.

16 Gentleman and Ms. Hughes, you have heard  
17 Mr. Candelaria's work experience, his career in Corrections.

18 I don't think there's anything that I could add  
19 to that. However, as I thought, there is. I'd like to  
20 highlight this for you.

21 I think one of the things that is unique in  
22 Mr. Candelaria's work experience in Corrections is that he  
23 started out as a correctional officer. He went up through the  
24 ranks. He gained valuable, valuable experience as he moved  
25 along. Now he is at the level of the Warden.

26 But if that was not enough, he then also went out  
27 into the Paroles Division, which is another almost career field,  
28 and he obtained some more valuable experience there.



1           So, if he would be working as a Warden, he also  
2 then has valuable experience in how to deal with, if there is  
3 ever a situation where he has to deal with parolees or with the  
4 Parole Division.

5           So again, I think that Mr. Candelaria is very,  
6 very well qualified and has the experience that is needed in  
7 order to be able to administer that institution.

8           So again, we ask you to endorse him as Warden at  
9 Wasco State Prison. Thank you very much.

10           CHAIRMAN BURTON: Is there any opposition.

11           SENATOR LEWIS: Move.

12           CHAIRMAN BURTON: Hearing none, moved by Senator  
13 Lewis. Call the roll.

14           SENATOR HUGHES: I'd just like to ask the witness  
15 one short question. I know you missed me last week, but I'm  
16 back.

17           And that is, we've had extensive conversation  
18 with Mr. Terhune in his confirmation process. So, I would like  
19 to pose to you a question that I posed to him before, and you've  
20 had wonderful witnesses to come and support your confirmation.  
21 This is one of the questions that I had asked him that I'd like  
22 to ask you.

23           He has the major responsibility, because he's not  
24 only responsible for one institution, as you are, he's  
25 responsible for all of them.

26           And the tough question that I asked him was, what  
27 is he going to do about ensuring that there is no retaliation to  
28 any employee of yours who might come before this group, or



1 before any other group, giving their points of view as to how  
2 they see the system in their respective institution, and making  
3 certain that no employee faces a harsh retaliation for any  
4 testimony that they have given before you or before your  
5 superiors?

6                   What kinds of things are you committed to put in  
7 place, or to keep in place, if you are already serving in that  
8 capacity, in the future so that employees won't be reluctant to  
9 tell the truth as they see it, and to feel secure enough to know  
10 that they will not be retaliated?

11                   MR. CANDELARIA: I think it's important that, as  
12 a warden, you have a trained cadre of staff in the sexual  
13 harassment arena, the employee opportunities arena. So, if  
14 somebody feels offended or slighted, there is an avenue for them  
15 to redress those concerns.

16                   SENATOR HUGHES: I'm not just talking about  
17 sexual harassment. I'm talking about personal harassment,  
18 because someone might come and say that their superior did this  
19 or that and the other, and then they get angry.

20                   Sexual harassment is just one of the harassments  
21 that people feel.

22                   CHAIRMAN BURTON: The issue was where two  
23 officers who testified in opposition to Mr. Terhune. And when  
24 they got back to their assignments, they were getting a little  
25 roused about it. And it had nothing to do with Mr. Terhune, but  
26 it happened.

27                   The thing that Senator Hughes wants to make  
28 clear, and I think all us, is that if somebody comes up here and

1 testifies as they see fit on a matter, that they don't get back  
2 and end up suffering for it on the job. I think that was the  
3 issue she was raising.

4 MR. CANDELARIA: I'm sorry, I really am not  
5 gifted enough to speak about the issue with the Director, but I  
6 am gifted enough to speak about what goes on in my prison.

7 I think the key to that is having a warden and an  
8 administrative staff that's approachable. If that does happen,  
9 should that happen, in all likelihood, it should get back to me  
10 and I can address that issue.

11 At this time, I don't have any examples that I  
12 could use, other than that I firmly believe that there should be  
13 an open-door policy. For we're a paramilitary organization, so  
14 there has to be a structure.

15 So, will you have disgruntled employees, or  
16 employees that feel they weren't treated properly? Perhaps.

17 It's my job to entertain and to get to the bottom  
18 of the fact. If there's truth to it, then it's my job to make  
19 sure it doesn't happen.

20 SENATOR HUGHES: And they can feel secure?

21 MR. CANDELARIA: I would think so.

22 SENATOR HUGHES: That you're going to see that  
23 they still have the option to speak to you, or to your superior,  
24 or even to the Legislature, and not be felt that they're going  
25 to be chastised for it in any way?

26 That's what I mean. Not sexual harassment. Now,  
27 sexual harassment, that's another big issue. But this is just  
28 personal harassment.

1 MR. CANDELARIA: Well, like I say, the only thing  
2 I can do as the Warden is attest to the fact we have ongoing  
3 communication. But we are a paramilitary organization.

4 We do have disgruntled employees at times, and  
5 it's my job to get to the bottom of that and find out what the  
6 truth is.

7 Can I please all 1400 employees every day?  
8 Probably not. Will I stop them from coming to talk in front of  
9 this prestigious committee? Never. Will I like what they say?  
10 I hope so.

11 But I've got a prison to run, and the key to  
12 running that prison is being fair and consistent, not only in  
13 what I do, but what my managers do when I'm away from the  
14 prison. That's my success. When I get there, that I can take a  
15 day off or a week off, because that's how we live as a warden.  
16 We are on call 24 hours a day, seven days a week. We may be  
17 away, but we have the pagers now and cellular telephones.

18 So, my belief and my wish is that my staff live  
19 and breathe what I preach, and that's treating people with  
20 respect and dignity and fairness.

21 Being popular and being liked by everybody is  
22 something I would really like, but it's probably not real  
23 practical as a prison warden today.

24 SENATOR HUGHES: Thank you.

25 CHAIRMAN BURTON: Senator Ayala.

26 SENATOR AYALA: Just a short question.

27 I see that you have experience in the Parole  
28 Division.



1 MR. CANDELARIA: Yes, sir, about ten years.

2 SENATOR AYALA: As you well know, almost 80  
3 percent of all the inmates in state prison are inmates who have  
4 had their parole revoked.

5 MR. CANDELARIA: Yes, sir.

6 SENATOR AYALA: We must be doing something wrong.  
7 If it wasn't for all these people in prison who have come back  
8 because of violation of their parole, we wouldn't need any more  
9 prisons.

10 What do you see wrong with our Parole Division,  
11 if at all? We must be doing something wrong, because we have  
12 the largest percentage of people coming back to prison because  
13 of parole violation in the country, in the nation.

14 MR. CANDELARIA: Well, Senator, in fairness to  
15 the Parole Division, I've been away from them for about two  
16 years.

17 But I would like to think just the opposite, sir,  
18 that we're doing something very well.

19 This prestigious house makes laws and rules that  
20 we at the Department of Corrections must adhere to. There are  
21 technical violations, there are direct go-to-jail violations  
22 that the parole agent or the correctional officer, we have  
23 nothing to do with. They are Penal Code sections.

24 So, the revocation process is in itself very  
25 high, of course. In my prison, about 45 percent of my intake is  
26 parole violators. But we have a system that says, you commit  
27 these crimes, you go to jail. If you commit these violations,  
28 you're returned.



1 I would not attest to being an expert on  
2 revocation by any stretch of the imagination, sir.

3 SENATOR AYALA: Thank you.

4 I move his confirmation.

5 CHAIRMAN BURTON: Now you got me. I'd like to  
6 sometime be privy to a conversation with you and Senator Costa  
7 about the work you've done for the schools there. It seemed to  
8 be rather interesting.

9 Could you get us, if 45 percent of the people  
10 that come in are violations, could you get this Committee -- and  
11 I think Mike Neal or the Director, somebody, once was going to  
12 get something to us that we haven't gotten -- but what are those  
13 violations?

14 Are they like missing an appointment? Are they  
15 peeing dirty in a bottle? Are they in effect committing an  
16 offense?

17 I assume that information is available.

18 MR. CANDELARIA: Yes, sir.

19 CHAIRMAN BURTON: Could you get that to us? Of  
20 that 45 percent, which ones are the various types? What the  
21 violations are, so we can see whether some of what's being done  
22 makes much sense.

23 Call the roll.

24 SECRETARY WEBB: Senator Ayala.

25 SENATOR AYALA: Aye.

26 SECRETARY WEBB: Ayala Aye.

27 SECRETARY WEBB: Senator Hughes.

28 SENATOR HUGHES: Aye.

1 SECRETARY WEBB: Hughes Aye. Senator Lewis.

2 SENATOR LEWIS: Aye.

3 SECRETARY WEBB: Lewis Aye. Senator Burton.

4 CHAIRMAN BURTON: Aye.

5 SECRETARY WEBB: Burton Aye. Four to zero.

6 CHAIRMAN BURTON: The roll will remain open for  
7 Senator Brulte.

8 [Thereafter, SENATOR BRULTE

9 added his Aye vote, making the

10 final vote 5-0 for confirmation.]

11 CHAIRMAN BURTON: Thank you and congratulations,  
12 sir.

13 MR. CANDELARIA: Thank you.

14 CHAIRMAN BURTON: Antonio Amador, Public  
15 Employment Relations Board, accompanied by the distinguished  
16 majority leader, Senator Richard Polanco.

17 SENATOR POLANCO: Mr. Chairman, if I may very  
18 briefly present Tony, as we know him.

19 Very briefly, he brings both the management  
20 experience as well as the labor experience. I met Tony years  
21 and years ago. He served for twelve-and-a-half years in the  
22 capacity as President and Board Member of the L.A. Police  
23 Protective League. He was then well distinguished, having  
24 negotiated the first contract with the city for five years.

25 He was involved in sponsoring what is referred to  
26 as the Police Officers' Bill of Rights.

27 He has served under both Republican and  
28 Democratic administration. As you see his resume, having served

1 for seven years as a member and the vice chairman of the U.S.  
2 Merit System Protective Board under presidential appointment by  
3 then-President Bush. He served in California as the Deputy  
4 Director of the Employment Development Department under the  
5 Deukmejian administration. But he first got his start, Members,  
6 under the Jerry Brown administration, when he served as Director  
7 of California Youth Authority, served as the Chairman also of  
8 the Youthful Offender Parole Board and the Narcotic Evaluation  
9 Authority.

10 I am a personal friend as well as a professional  
11 friend. He's delivered at least 32 years of services. And  
12 Senator Ayala, I know that he meets your criteria with regards  
13 to the commitment of service to people without the political  
14 ideologies or all the other vices that take place.

15 I'm proud to introduce my friend Tony to this  
16 distinguished Board in hopes of his confirmation and urging your  
17 confirmation of his candidacy.

18 CHAIRMAN BURTON: I just have one question.  
19 You're Antonio, right.

20 MR. AMADOR: Yes.

21 CHAIRMAN BURTON: How come you can be called  
22 Tony, but Speaker Villaraigosa cannot be called Tony?

23 SENATOR POLANCO: It's a generational thing,  
24 Senator.

25 [Laughter.]

26 CHAIRMAN BURTON: Maybe you could counsel the  
27 young fella, you want to get a rise out of him. Go ahead,  
28 please.

1 MR. AMADOR: I won't take a lot of your time.  
2 I'd rather to use the time for your questions, if you have any.

3 Very briefly, I've got various experience in  
4 labor and management, both sides of the issue. I feel like I'm  
5 well qualified for the position.

6 What I did at the Merit Systems Protection Board  
7 in Washington, D.C. was actually adjudicate personnel actions.  
8 It used to be called the old Civil Service Commission. In 1978,  
9 President Carter changed that to the Merit Systems Protection  
10 Board because the Civil Service Commission used to make and also  
11 adjudicate the actions. So, they had the Office of Personnel  
12 Management become the rule makers, and MSPB became the  
13 adjudicators. We were the last level of review for federal  
14 employees before they went to District Court of Appeal.

15 We handled about 1700 cases per year, and we were  
16 upheld about 95 percent of all of our cases.

17 I have gone -- it wasn't mentioned by the  
18 Senator -- I am a graduate of McGeorge Law School.

19 I might add that I think that my years of  
20 experience has qualified me for this position today, Senators.

21 CHAIRMAN BURTON: How are you doing with Frank  
22 Grimes?

23 MR. AMADOR: Frank Grimes is a good friend of  
24 mine. He was on the same board.

25 CHAIRMAN BURTON: Good enough. Is he enjoying  
26 retirement?

27 MR. AMADOR: I don't think he's quite retired,  
28 the way he's running around.



1 CHAIRMAN BURTON: He's working for Gray Davis.  
2 Questions, Members of the Committee? Senator  
3 Hughes.

4 SENATOR HUGHES: I'm just curious, Mr. Amador.  
5 What has been PERB's experience with charter schools to date?  
6 Do you have any background on that?

7 MR. AMADOR: As far as a policy issue as far as  
8 where we stand on charter schools, the Board itself does not  
9 take positions. We are not going to legislate from our  
10 positions as Board members.

11 SENATOR HUGHES: Because you have exempted  
12 yourselves from dealing with them, is this what it is?

13 MR. AMADOR: I think our jurisdiction is what the  
14 Legislature --

15 SENATOR HUGHES: They are exempt from the  
16 Education Employment Relations Act.

17 MR. AMADOR: Right.

18 SENATOR HUGHES: For charter schools who have  
19 exempted themselves from the district's bargaining agreement,  
20 how can the employees organize themselves, and can these  
21 employees be recognized by PERB?

22 MR. AMADOR: Only if those employees are able to  
23 pass legislation to include themselves in the Act can we  
24 adjudicate any of their differences.

25 SENATOR HUGHES: If such legislation were  
26 proposed, would you be supportive of it as an individual?

27 MR. AMADOR: I would absolutely follow the law,  
28 Senator Hughes.

1 SENATOR HUGHES: You would follow the law.

2 Whatever we do, you would support us? That's bad news.

3 CHAIRMAN BURTON: They're not changing the law.

4 MR. AMADOR: We are not going to change any laws.

5 We are not going to be an activist in any way on that issue.

6 SENATOR HUGHES: What, if any, potential problems  
7 would you see in protecting the rights and the benefits of  
8 school employees under the charter school law?

9 This is just for informational purposes, because  
10 I know --

11 MR. AMADOR: Senator Hughes -- I said Teresa. I  
12 remember you as Assemblywoman when we supported you at the  
13 Police Protective League many years ago.

14 SENATOR HUGHES: I was Teresa, and I'm still  
15 Teresa, but you may call me Senator.

16 MR. AMADOR: Yes, but you're Senator Hughes here.

17 Senator Hughes, I am not going to give any  
18 positions or my own personal opinions about charter schools at  
19 all.

20 SENATOR HUGHES: Thank you very much.

21 MR. AMADOR: Thank you.

22 CHAIRMAN BURTON: Just one quick.

23 So, any bill that comes up that would deal with  
24 expanding or, I guess, retracting authority of the Board, the  
25 Board never shows up to talk about legislation?

26 MR. AMADOR: The Board does not take positions on  
27 legislation.

28 CHAIRMAN BURTON: Even if it affects them?

1 MR. AMADOR: If it affects the Board directly, as  
2 to this point, we do not take positions on legislation.

3 CHAIRMAN BURTON: Good for them.

4 Any other questions?

5 Anybody want to register their name in support?

6 SENATOR HUGHES: Move.

7 CHAIRMAN BURTON: Any opposition?

8 Moved by Senator Hughes. Call the roll.

9 SECRETARY WEBB: Senator Ayala.

10 SENATOR AYALA: Aye.

11 SECRETARY WEBB: Ayala Aye.

12 SECRETARY WEBB: Senator Hughes.

13 SENATOR HUGHES: Aye.

14 SECRETARY WEBB: Hughes Aye. Senator Lewis.

15 SENATOR LEWIS: Aye.

16 SECRETARY WEBB: Lewis Aye. Senator Burton.

17 CHAIRMAN BURTON: Aye.

18 SECRETARY WEBB: Burton Aye. Four to zero.

19 CHAIRMAN BURTON: Roll will be open for Senator  
20 Brulte.

21 [Thereafter, SENATOR BRULTE

22 added his Aye vote, making the

23 final vote 5-0 for confirmation.]

24 MR. AMADOR: Thank you, Senator.

25 CHAIRMAN BURTON: Sally Rakow, what are you  
26 doing? I almost tried to hire her 25 years ago.

27 MS. RAKOW: You remember.

28 CHAIRMAN BURTON: Oh, yes.

1                   SENATOR ROSENTHAL: I'm pleased to introduce to  
2 you Sally Rakow.

3                   I worked with Sally for many years, beginning  
4 with my Chairmanship of the Energy and Public Utilities  
5 Committee when she was on the Energy Commission.

6                   She has a strong grasp of issues, did her  
7 homework, gave fair consideration to many points of view. She  
8 also developed a close, cooperative working relationship with  
9 the Legislature, which pleased me very much.

10                  Her six years of experience with the Energy  
11 Commission was excellent preparation for appointment to the Air  
12 Resources Board, and I believe she deserves your favorable  
13 consideration.

14                  CHAIRMAN BURTON: Go ahead, Sally.

15                  MS. RAKOW: Thank you, Senator Rosenthal, for  
16 those very generous words.

17                  You'll have to excuse me. I have a bit of  
18 laryngitis.

19                  CHAIRMAN BURTON: Be very brief then and submit  
20 it for the record.

21                  MS. RAKOW: I am very happy to have the  
22 opportunity to reintroduce myself to you, as the Committee  
23 membership has changed since I was last before you.

24                  I am a fourth generation Californian, raised in  
25 Marin County, where I still live. After teaching elementary  
26 school and being very active in a variety of citizens' education  
27 groups, I took the big step and served eight years as a school  
28 board member. In that role, in addition to my local



1 responsibilities, I did have the opportunity to broaden my  
2 perspective and work on some statewide issues.

3 As a native Californian, I have seen the  
4 tremendous growth in the Bay Area and the state as whole. I  
5 have a first-hand understanding of the impacts, environmental  
6 and economic, that we must continually address.

7 The policy making function of the Air Resources  
8 Board is not really a new role for me. Most of my professional  
9 and civic experience, most recently with the California Energy  
10 Commission, has required that I work with advocates from a  
11 divergent group of constituents with often very competing  
12 interests. And throughout my career, I have had the pleasure of  
13 working with decision makers at all levels in order to formulate  
14 policy.

15 I was very pleased when Governor Wilson appointed  
16 me to the Air Resources Board, as air quality and energy do go  
17 hand in hand. I find that my recent role as the Energy  
18 Commission Vice Chair, and a very brief stint as acting Chair,  
19 gave me a unique advantage of seeing some of the same issues  
20 from two different angles.

21 ARB's strategic plan calls for reducing air  
22 toxics and achieving healthful air for all Californians with a  
23 partnership approach. To me, that's very important. And this  
24 means a broad-based collaborative effort to develop pollution  
25 reducing strategies.

26 To help put these words into action, last  
27 November I initiated a joint meeting with the ARB and the CEC  
28 Chairmen, Board Members, and staff from each agency. My focus

1 was to explore areas of mutual partnership, transportation  
2 policies being among a priority issue, also, the mutual  
3 challenge of power plant air quality management in a deregulated  
4 world. So, I look forward to having these dialogues continue.

5 ARB's agenda, as I mentioned, and commitment is  
6 to achieve air in a flexible -- clean air in a flexible, cost  
7 effective manner. It's a very complicated multi-dimensional  
8 issue with difficult choices.

9 Should you confirm my appointment, I will  
10 guarantee that I will make sure that the table is big enough to  
11 seat everybody who is interested in sitting there.

12 Thank you. If you have any questions, I'd be  
13 glad to answer them.

14 CHAIRMAN BURTON: Questions from Members of the  
15 Committee?

16 Why didn't you take the job when I offered it?  
17 Senator Hughes.

18 SENATOR HUGHES: Thank you very much for being  
19 with us this afternoon.

20 I was just a little bit curious and wondering,  
21 based on your tremendous experience and interest in this area,  
22 if you have any suggestions that you could offer for speeding  
23 the process of evaluating and regulating toxic compounds?

24 MS. RAKOW: The ARB goes through this  
25 identification process that is based on very, very solid  
26 scientific-math data. I, always being a skeptic, always look at  
27 government as, oh my, why are we taking such a long time to do  
28 this or that.

1                   However, I have found that the data is so  
2 complicated and the science is so refined that it needs time to  
3 organize it, to analyze it, to put it out to the public. And the  
4 ARB spends a great deal of time bringing the public in and  
5 responding to the information that we've gathered.

6                   So, I think, for instance, the time spent is  
7 quite worthwhile. When I see a couple of years have gone by,  
8 then I realize that it's gone out to two different scientific  
9 draft committees and has come back for the third.

10                  And also there is by law, or regulatory statute,  
11 I guess, there's a certain time period that information must be  
12 out there for responses to come in.

13                  So, I think sometimes the staff works -- I know  
14 all the time the staff works very hard, but sometimes it moves  
15 very fast.

16                  The rice burning straw issue, Senator Thompson  
17 put in a bill last year to appropriate some money. Within a few  
18 months, the program was developed. People were brought in,  
19 stakeholders were brought in, and the workshops. The program  
20 was approved by the Board, and now the demonstration grants are  
21 out to the public. That all took place in about six months, so  
22 that was good.

23                  SENATOR HUGHES: What was done differently in  
24 that case than is done in other cases? How was the process  
25 speeded up?

26                  MS. RAKOW: Well, I think that the rice straw  
27 burning issue did not need a lot of scientific backgrounds. It  
28 was there already.



1           The legislation that had phased in the rice straw  
2 burning was already in place. This was an adjunct. This was to  
3 put demonstration projects for commercial use of the rice straw.

4           SENATOR HUGHES: One last question, because I  
5 really feel guilty for straining your voice, but my curiosity  
6 demands that I ask these questions.

7           What do you think that issue of diesel exhaust as  
8 a toxic air contaminant? When will this come before your Board?

9           MS. RAKOW: That is -- that was the issue that I  
10 was thinking had gone out to two scientific studies.

11           Right now, or very shortly this spring, the  
12 scientific review panel will be doing their analysis. Then  
13 they will make the recommendation to the Board.

14           I believe it's going to come this fall at some  
15 point. And Senator, you understand that this is an  
16 identification phase, and that is what the Board will be -- I'm  
17 speculating, but the Board will be acting one way or another on  
18 the identification phase.

19           SENATOR HUGHES: Thank you very much.

20           MS. RAKOW: Thank you.

21           CHAIRMAN BURTON: Any other questions?

22           SENATOR HUGHES: I'd like to move.

23           CHAIRMAN BURTON: Moved by Senator Hughes. Call  
24 the roll.

25           Support and opposition?

26           SECRETARY WEBB: Senator Ayala.

27           SENATOR AYALA: Aye.

28           SECRETARY WEBB: Ayala Aye.



1 SECRETARY WEBB: Senator Hughes.

2 SENATOR HUGHES: Aye.

3 SECRETARY WEBB: Hughes Aye. Senator Lewis.

4 SENATOR LEWIS: Aye.

5 SECRETARY WEBB: Lewis Aye. Senator Burton.

6 CHAIRMAN BURTON: Aye.

7 SECRETARY WEBB: Burton Aye. Four to zero.

8 CHAIRMAN BURTON: Congratulations, Sally.

9 MS. RAKOW: Thank you.

10 CHAIRMAN BURTON: Leave the roll open for Senator  
11 Brulte.

12 [Thereafter, SENATOR BRULTE

13 added his Aye vote, making the

14 final vote 5-0 for confirmation.]

15 SENATOR LEWIS: Mr. Chairman, on behalf of  
16 Senator Brulte, I've been asked to make a brief announcement  
17 that he'll be back shortly, but that this will be his last  
18 meeting on the Rules Committee. He's been appointed Caucus  
19 Chairman of the Senate Republicans. So, he'll be tendering his  
20 resignation from this Committee.

21 CHAIRMAN BURTON: Robert Tourtelot, California  
22 Horse Racing Board.

23 MR. TOURTELOT: Good afternoon, Senators.

24 CHAIRMAN BURTON: Good afternoon, sir.

25 MR. TOURTELOT: Senator Burton, I don't have a  
26 prepared speech, but there's a couple words that I'd like to  
27 share with all of you.

28 When I appeared before this Committee four years

1 ago, I knew relatively little about horse racing. I think the  
2 Governor's thought was to appoint somebody who was not tied to  
3 one part of the industry or the other.

4 CHAIRMAN BURTON: Appoint someone who didn't know  
5 anything?

6 MR. TOURTELOT: In any event, you'll see my  
7 point. I was scared to death that somebody, some Senator, was  
8 going to ask me some really tough questions about medication or  
9 other things. And fortunately they didn't.

10 Now, four years has passed, and I've spent a lot  
11 of time outside of the Board meetings, learning about the  
12 industry. In four years and four months, I haven't missed one  
13 monthly meeting, notwithstanding the fact they're all over the  
14 state. We have a different location every month.

15 I chaired the Simulcast Committee, which was a  
16 very important committee because of satellites, working on  
17 improving our satellite facilities throughout the state.

18 As you may know, the horse racing industry, just  
19 from the tracks alone and the satellites, brings about \$100  
20 million in revenue to the state. I think there's a lot more  
21 revenue than that when you take into consideration the off-track  
22 activities.

23 The revenue is declining. Our fan base is  
24 declining. A lot of people have said, and I've said, that  
25 there's probably too much gray hair at the track, not enough  
26 younger people. I've been very interested in working on  
27 marketing and seeing that we try to increase our fan base.

28 I might say that other committees that I headed

1 were the Bylaws Committee and the Pari-Mutuel Committee. After  
2 four years, I think that I know a lot more than I did when I  
3 first came to the Board.

4           You'd always like to think you might get a report  
5 card at the end of four years, when you're dealing so many  
6 different factions: the associations, which are the tracks; the  
7 trainers; the owners; and labor. Being a Republican appointee,  
8 I think I'm very proud of the report card that I did get.  
9 Senator, I received a copy of a letter Friday that was sent by  
10 labor to you. I don't know if the Committee Members have read  
11 it. If they haven't, it's not that long. I'd like to read it  
12 for the record, and I think that's my report card for my four  
13 years.

14           CHAIRMAN BURTON: Surely.

15           MR. TOURTELOT: Thank you.

16           This is from the Pari-Mutuel Employees Guild,  
17 which is Local 280, which is the labor, organized labor for the  
18 horse racing tracks. It's re: reappointment of Robert  
19 Tourtelot to CHRB.

20           "Dear Chairman Burton:

21           "I was planning to attend the confirmation  
22 hearing of Robert Tourtelot to the California Horse Racing Board  
23 on March 16th, 1998. I will not be able to attend and that is  
24 the reason you are getting this letter. This letter being sent  
25 on behalf of the four paid officers of SEIU Pari-Mutuel Clerks  
26 Local 280. I feel honored that I was asked by the others to  
27 sends this letter.

28           "I'm speaking in support of Robert Tourtelot to



1 be granted another four year term as Commissioner to the  
2 California Horse Racing Board.

3 "I'm confident others will address issues of  
4 character, trust, honor, integrity, all of the highest ethical  
5 standard." As you can see, there's no one here.

6 "Robert Tourtelot is exemplary of the standard we  
7 all desire to have as our representative from California and our  
8 horse racing industry.

9 "Robert Tourtelot has spent many donated hours  
10 learning about all segments of the horse racing industry. He  
11 has an open door policy where anyone can have gripes heard.  
12 Regarding my gripes, seldom does he agree totally, but he is  
13 fair. He makes the playing field fair, backed by the letter of  
14 the law, and you can't ask for any more than that.

15 "Robert Tourtelot, I believe, is an asset to all  
16 segments of the California horse racing industry. For us from  
17 organized labor, he is essential, indispensable because he is  
18 fair!

19 "I urge you join me and actively support the  
20 reappointment of Robert Tourtelot as Commissioner of the  
21 California Horse Racing Board.

22 "Sincerely, Richard D. Castro, Vice President,  
23 Northern Business Agent."

24 With that, if anyone has any questions, I'd be  
25 glad to answer them.

26 CHAIRMAN BURTON: What does it say about society  
27 when people are just so happy that somebody happens to be fair?  
28 It's like me, you know. I keep my word, so I'm all right.



1 MR. TOURTELOT: I don't know. I've been a trial  
2 lawyer for 32 years. All I ask for is the judge to be fair,  
3 whether I win or not.

4 CHAIRMAN BURTON: I know that, but I mean that it  
5 just says almost that being fair today is like people aren't.

6 This is not critical of you, but it's kind of  
7 critical of what's happening to society.

8 What do you think could save horse racing, live  
9 racing in this state?

10 I have a theory that probably in the year 2004,  
11 there's going to be one track in Omaha, Nebraska, running 24  
12 hours around the clock, with simulcast going all throughout the  
13 country.

14 I'm facetious, but I'm half serious, because I  
15 don't think that a lot of people in the state realize that the  
16 horse racing industry is not just a race track. I mean, it's  
17 the breeders; it's the people that grow the feed. There's a  
18 whole part of the industry that people aren't aware of. It's  
19 more than just Santa Anita or Hollywood.

20 MR. TOURTELOT: And 22,000 people are employed in  
21 all these aspects.

22 Well, they said that about football also, there'd  
23 be one stadium and everything's on television.

24 It may be that -- and I'm not happy --

25 CHAIRMAN BURTON: When did they say that? I  
26 never heard that one. There wouldn't be enough TV revenue for  
27 it.

28 MR. TOURTELOT: They said that they'd have a

1 small stadium, and there'd be television pay TV for football.

2 CHAIRMAN BURTON: Everybody'd play one game after  
3 another?

4 MR. TOURTELOT: Right.

5 Getting back, I hope it doesn't happen, but it  
6 won't happen throughout the United States that there's one  
7 track, but I do believe that there's a possibility in  
8 California, you may have certainly one in Northern California  
9 and one in Southern California. I'd hate to see that.

10 I think that we are making some stride. When I  
11 first went on the Board, I went to a symposium in Tucson,  
12 Arizona on the horse racing industry, and the common thread that  
13 ran through everyone's speech was that we all have to pull on  
14 the same rope in the same direction.

15 We have all these associations, all running in  
16 different directions. There's no common marketing, such as you  
17 have with the NFL or the NBA, et cetera, the NHL. And they  
18 finally, after 40-some years, they've formed a National  
19 Association of all of the race tracks, major race tracks in the  
20 United States. It's being funded by each track, has a staff.  
21 And they are dedicated to a national marketing plan, ways they  
22 can save expenses. I mean, it's ludicrous to have four different  
23 printing plants for programs, for example, for tracks in  
24 California. And sharing marketing expenses, and trying to  
25 increase the fan base. How do we do that?

26 My brother, who's here today, Richard Tourtelot,  
27 I took him to the track one day and he said, "you know, your  
28 problem here is, you need Disney out here to make this an

1 event."

2 I mean, in between races is 28 minutes, and  
3 people just sit there.

4 CHAIRMAN BURTON: Very boring.

5 MR. TOURTELOT: And they're bored to death. New  
6 fans don't understand the racing form. I mean, an algebra book  
7 would be probably more understandable than a racing form.

8 So, you know, they just don't understand it.  
9 It's boring.

10 But there is some light at the end of the tunnel  
11 if we all pull together, because Hollywood Park last year,  
12 Friday night, opening night, had 35,000 people. And they were  
13 young yuppies, smoking cigars, drinking beer. There was a band,  
14 and they were having a good time because it was an event. And I  
15 always say, if they can get 35,000 people for that, then there  
16 is some hope for racing.

17 But the only hope is that people will all work  
18 together from a marketing standpoint.

19 CHAIRMAN BURTON: Senator Ayala.

20 SENATOR AYALA: I don't know if this is for  
21 publication or not, but I heard a rumor that Santa Anita's  
22 phasing out.

23 MR. TOURTELOT: I just spoke to the Chairman of  
24 the Board at Santa Anita last Saturday, a week ago Saturday.  
25 And the company that bought them has just spent some \$24 million  
26 improving the track. I may be wrong in the number, but it's a  
27 large number, because I asked him same question. He said they  
28 are dedicated to keeping that track.



1 CHAIRMAN BURTON: That's the most beautiful track  
2 I've ever seen.

3 MR. TOURTELOT: And I was quoted. I sent the  
4 newsletter with an article about me to the Committee, and I was  
5 quoted in there that it would be over my dead body, if I had any  
6 say-so, that they would tear down Santa Anita, because I just  
7 think it's something that you'll never have again.

8 By the way, I voted for your track out at Pomona.

9 SENATOR AYALA: Thank you, I appreciate it.

10 MR. TOURTELOT: I wanted you to know that.

11 SENATOR HUGHES: I want to thank you very much  
12 for making me feel more secure that my district is bringing in  
13 lots of revenue at Hollywood Track. Thank you.

14 MR. TOURTELOT: You're welcome.

15 CHAIRMAN BURTON: Any support? Any opposition?  
16 Your brother for you or against you? Just keeping an eye out.

17 FROM THE AUDIENCE: For.

18 SENATOR AYALA: Move the nomination.

19 CHAIRMAN BURTON: Moved by Senator Ayala. Call  
20 the roll.

21 SECRETARY WEBB: Senator Ayala.

22 SENATOR AYALA: Aye.

23 SECRETARY WEBB: Ayala Aye.

24 SECRETARY WEBB: Senator Hughes.

25 SENATOR HUGHES: Aye.

26 SECRETARY WEBB: Hughes Aye. Senator Lewis.

27 SENATOR LEWIS: Aye.

28 SECRETARY WEBB: Lewis Aye. Senator Burton.



1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye. Four to zero.

3 CHAIRMAN BURTON: Leave the roll open for  
4 Senator Brulte.

5 SECRETARY WEBB: Senator Brulte has asked that he  
6 be added as an Aye vote on all appointees.

7 CHAIRMAN BURTON: Without objection.

8 [Thereafter, SENATOR BRULTE  
9 added his Aye vote, making the  
10 final vote 5-0 for confirmation.]

11 CHAIRMAN BURTON: Thank you, sir, and  
12 congratulations.

13 [Thereupon this portion of the  
14 Senate Rules Committee hearing was  
15 terminated at approximately 2:25 P.M.]

16 --ooOoo--  
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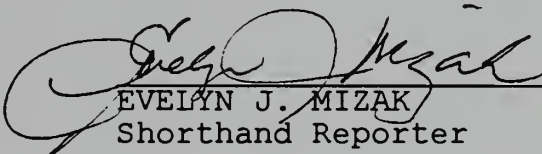
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 17<sup>th</sup> day of March, 1998.

  
EVELYN J. MIZAK  
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27 Evelyn J. Mizak  
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APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

JOSH LOWERY, Consultant to SENATOR KNIGHT

ALSO PRESENT

JO ANN GORDON, Warden  
California Rehabilitation Center, Norco

ROY MABRY, State President  
Association of Black Correctional Workers

FRANK R. SEARCY, President  
Chicano Correctional Workers Association

FLAVIO DURAND, President  
Norco Chapter  
Chicano Correctional Workers Association

LEE A. GRISSOM, Secretary  
Trade and Commerce Agency

SENATOR STEVE PEACE

BOB MONAGAN, Chair  
World Trade Commission

WAYNE SCHELL, President and Chief Executive Officer  
California Association for Local Economic Development

ANNE KELLY  
Anheuser-Busch Companies

1       CONRAD W. HEWITT, Commissioner  
2       Department of Financial Institutions

3       ED LEVY  
4       Western League of Savings Institutions

5       RUSSELL NOACK  
6       California Association of Thrift and Loan Companies

7       GREGORY O. WILHELM  
8       California Bankers Association

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14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# INDEX

## Page

Proceedings ..... 1

### Governor's Appointees:

JO ANN GORDON, Warden  
California Rehabilitation Center, Norco ..... 1

Background and Experience ..... 1

#### Questions by SENATOR HUGHES re:

Plans for Holding Employees Responsible  
and Accountable for Their Conduct ..... 2

Internal Affairs Process at CRC ..... 3

Ensuring Employees against  
Retaliation by Other Employees ..... 3

#### Questions by CHAIRMAN BURTON re:

Substance Abuse Education for  
Felon Prisoners ..... 4

Proposals to Expand Substance Abuse  
Programs in Institution ..... 5

Basic 12-Step Programs ..... 5

Views on Alternatives to Incarceration ..... 6

#### Questions by SENATOR KNIGHT re:

Educational Programs for All Inmates ..... 7

Screening Process for Educational  
Programs ..... 7

#### Questions by SENATOR AYALA re:

Nonsmoking Policy in Prison ..... 9

### Witnesses in Support:

ROY MABRY, State President  
Association of Black Correctional Workers ..... 9

FRANK R. SEARCY, President  
Chicano Correctional Workers Association ..... 10



1			
2	FLAVIO DURAND, President		
3	Norco Chapter		
4	Chicano Correctional Workers Association .....	10	
5	Motion to Confirm .....	11	
6	Committee Action .....	11	
7	LEE A. GRISSOM, Secretary		
8	Trade and Commerce Agency .....	11	
9	Introduction and Support by SENATOR STEVE PEACE .....	11	
10	Background and Experience .....	13	
11	Questions by CHAIRMAN BURTON re:		
12	Number of Exempt Employees at Agency .....	17	
13	Number of Exempt Positions Which Have		
14	Become Civil Service Positions .....	17	
15	Request for Information on Exempts .....	17	
16	Payment of Employees in Mexico City		
17	Office in Pesos .....	17	
18	Evidence of Job Creation or Foreign		
19	Investment as a Result of Overseas Trips .....	18	
20	Request for Information on Benefit and Cost		
21	of Overseas Trips .....	19	
22	Opening Three More Trade Offices .....	19	
23	American Jobs Sent Overseas .....	21	
24	Questions by SENATOR HUGHES re:		
25	Corporate Downsizing .....	22	
26	Agency's Assistance to Small Businesses		
27	in Small Cities and Rural Areas .....	24	
28	Outreach Programs .....	24	
	Questions by SENATOR LEWIS re:		
	Concern of Travel Agents about		
	Unfair Competition .....	25	
	Current Status .....	27	

1 Motion to Confirm ..... 27

2 Questions by SENATOR AYALA re:

3 Competition with Free Enterprise System ..... 28

4 Downsizing of California Military Bases ..... 29

5 Strategy to Keep Aerospace Industry in  
6 California ..... 30

7 Questions by SENATOR KNIGHT re:

8 Program Concerning Underground Storage  
9 Tanks . ..... 31

10 Lack of Money in Program to Help Small  
11 Businesses Remove and Replace Tanks ..... 32

12 Possibility of Extending December  
Deadline ..... 32

13 Questions by SENATOR AYALA re:

14 Status of Funds for Underground Storage  
15 Tank Loan Program ..... 34

16 Statements by SENATOR HUGHES re:

17 Return of Small Gas Station ..... 35

18 Questions by SENATOR KNIGHT re:

19 Mission Depletion at Various Bases ..... 36

20 Statement by Acting Secretary of  
Air Force ..... 36

21 Status of Edwards Air Force Base ..... 37

22 Witnesses in Support:

23 BOB MONAGAN, Chair  
24 World Trade Commission ..... 37

25 WAYNE SCHELL, President and CEO  
26 California Association for Local  
Economic Development ..... 38

27 ANNE KELLY  
Anheuser-Busch Companies ..... 39

28 Committee Action ..... 40

1	CONRAD W. HEWITT, Commissioner	
2	Department of Financial Institutions .....	40
3	Background and Experience .....	41
4	Questions by SENATOR HUGHES re:	
5	Amended Regulation Permits Branch	
6	Closures without Notification .....	44
7	Department's Position on SB 1669 .....	46
8	Appearance of Consumer Unfriendliness .....	46
9	Questions by SENATOR AYALA re:	
10	SB 1669 Deletes Department's Authority	
11	over Deceptive Advertising by Industrial	
	Loan Companies .....	47
12	Questions by CHAIRMAN BURTON re:	
13	Handouts which Advice Groups to Put	
14	Money in Political Process to Obtain	
	Favorable Legislation .....	48
15	Position on Credit Union Issue .....	50
16	SB 1669's Proposal to End Notice	
	Requirement of Branch Closures .....	52
17	Deletion of Authority to Stop	
18	Deceptive Advertising .....	52
19	Reducing Scope of Existing Requirements	
	for Industrial Loan Companies .....	53
20	<u>Witnesses in Support:</u>	
21	ED LEVY	
22	Western League of Savings Institutions .....	55
23	RUSSELL NOACK	
24	California Association of Thrift and Loan	
	Companies .... ..	55
25	Discussion of SB 1669 .....	57
26	GREGORY O. WILHELM	
	California Bankers Association .....	59
27	Statement by CHAIRMAN BURTON to Put Over	
28	Confirmation . . . . .	61

Termination of Proceedings .....	61
Certificate of Reporter .....	62





## P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: We'll start first with Jo Ann Gordon, Warden, California Rehabilitation Center, Norco.

Hi.

MS. GORDON: Hi.

CHAIRMAN BURTON: Go ahead.

MS. GORDON: Good afternoon, Senator Burton and to the Senate Rules Committee.

CHAIRMAN BURTON: We do have your resume and everything that are part of our record, so why don't you just briefly give a pitch. Then, if we have any questions, we'll be happy to ask them of you.

MS. GORDON: Not a problem.

Thank you very much for allowing me to make this brief presentation. Like you said, you have my resume, so I won't go into a lot of details.

I have been with the Department of Corrections for approximately 23 years. I started my career as a correctional officer at the California Rehabilitation Center. This is my fourth time working at the California Rehabilitation Center, and now I am back there as the Warden upon confirmation by the Rules Committee.

And I turned 50 last week, so I'm nifty-fifty.

CHAIRMAN BURTON: Just a kid, all right.

Senator Hughes, any questions?

SENATOR HUGHES: Just a couple of brief ones.

Thank you for being with us this afternoon, and

1 thank you for all your years of service.

2 MS. GORDON: Thank you.

3 SENATOR HUGHES: Your background is quite  
4 impressive.

5 How do you plan on holding your employees  
6 responsible and accountable for their conduct? And I know that  
7 a lot of the institutions are now being investigated and there  
8 is a disciplinary process.

9 How are you handling these discipline problems?  
10 What are your expectations? How do you go about it?

11 MS. GORDON: First of all, one of things that I  
12 do is, I lead by example. And I expect my employees to follow  
13 the example that I put out there as the lead, as the person in  
14 charge of the prison.

15 The second thing is that we have to ensure that  
16 our employees know what the rules and regulations are. So, we  
17 have to be able to share information with them. We have to be  
18 able to train them so that they can do the job. Training is  
19 what helps equip them with what they need to do their job.

20 The third thing is, if there is a situation in  
21 which we need to take disciplinary action on an employee, we  
22 need to do that without prejudice. We need to open a fact  
23 finder and do that as quickly as possible, because it's  
24 important that staff are able to get -- what I say, get what  
25 they have coming. If they are not guilty of a charge, we should  
26 be able to clear them quickly. And if they are guilty of  
27 whatever the charge is, we should be able to take fair and quick  
28 disciplinary action.

1                   SENATOR HUGHES: What are your internal affairs  
2 processes at CRC?

3                   MS. GORDON: What are the internal affairs  
4 processes? Basically what happens is, there may be an  
5 allegation that comes forward. If the allegation comes forward,  
6 or when the allegation comes forward, I review that allegation.

7                   If there is sufficient information to open an  
8 investigation, I turn that over to my investigator, and we open  
9 a fact finder. Part of that, though, is to find out whether  
10 that would be something the prison could investigate, or if we  
11 need to refer to our internal affairs team that's outside of the  
12 prison.

13                  SENATOR HUGHES: How do you ensure, or do you try  
14 to ensure to your employees that no retaliatory processes will  
15 take place if they come and they tell you, or if they tell some  
16 outside agency that is investigating, are they reassured by you,  
17 or do you plan on reassuring them that there will not be any  
18 reprisals?

19                  This is the kind of paranoia that we are  
20 observing of the entire system.

21                  How do you personally handle this, having all the  
22 experience that you have?

23                  MS. GORDON: Well, I do it in a number of ways.  
24 Number one, I have an open-door policy. I believe that when  
25 people say something, they have something to say, and we should  
26 be listening to what they have to say. Whether that is an  
27 employee that is exceptional employee in terms of one of our  
28 better employees, or whether that's an employee that may not be



1 an exceptional employee, maybe what sometimes we refer to as  
2 disgruntled employees. But if they have something to say, there  
3 needs to be someone that hears what they have to say.

4 I look at that on that merit and go from there.  
5 I view retaliation as I view escapes, and that is, there's no  
6 tolerance for escapes; there's no tolerance for staff that  
7 attempt to retaliate on other staff that come forward.

8 SENATOR HUGHES: What do you do if you believe  
9 that a person is being retaliated against and you feel that  
10 something has to be done? What steps? I'm just making up a  
11 hypothetical, but what steps would you take?

12 MS. GORDON: If I felt that there was someone  
13 being retaliated against, then I would refer that for an  
14 investigation. Whether that would be in the prison, depending  
15 on what the situation is, or with our internal affairs group  
16 that's outside of the prison, I would make sure that it was  
17 investigated, because we cannot tolerate that.

18 SENATOR HUGHES: No other questions.

19 I believe you, too.

20 MS. GORDON: Thank you. I love my job, too.

21 CHAIRMAN BURTON: Are felony inmates offered drug  
22 abuse education there?

23 MS. GORDON: Not in the substance abuse program  
24 that we have. It's primarily for civil addicts at this time.

25 But one of our proposals is to have substance  
26 abuse programming for felons as well.

27 CHAIRMAN BURTON: I would hope so.

28 MS. GORDON: Absolutely.

1 CHAIRMAN BURTON: Do you have the support of the  
2 Department and the Governor's Office on the funding it will take  
3 to do that?

4 MS. GORDON: Do I have the support of them? At  
5 this time, I have not seen anything directly, but I do have  
6 proposals up that would consider that, that that would be  
7 considered.

8 CHAIRMAN BURTON: Are you making proposals and  
9 you send them up the line to them?

10 MS. GORDON: Yes, sir.

11 CHAIRMAN BURTON: You're waiting to hear back.

12 MS. GORDON: Yes, sir.

13 CHAIRMAN BURTON: How long have they been up the  
14 line?

15 MS. GORDON: One of the proposals has been up  
16 for couple months. It has to do with about 800 beds total for  
17 substance abuse programming at CRC, and that is including felons  
18 and civil addicts.

19 The only holdup at this time has to do with  
20 some -- we have seismic retrofit that's going on, and it kind  
21 of eliminates some of the program space. So, that has been  
22 approved, but it probably won't come on line for a couple of  
23 years.

24 CHAIRMAN BURTON: In there, do they have any  
25 basic twelve-step programs?

26 MS. GORDON: Yes, sir. We so have self-help  
27 groups Narcotic Anonymous, Cocaine Anonymous, Alcohol Anonymous,  
28 that is available to the felons as well as to the civil addicts.

1 CHAIRMAN BURTON: If anybody wants in, they get  
2 in?

3 MS. GORDON: Yes, sir.

4 CHAIRMAN BURTON: You've got room?

5 MS. GORDON: Yes, sir. The substance abuse  
6 programming, Senator, has to do with in our education department  
7 that we do substance abuse education for civil addicts only at  
8 this time, and that we have several courses.

9 In the book that I gave you, you'll see there is  
10 I believe it's a twelve-week course for new commitments, and  
11 then we have something for parole violators and for what we  
12 consider gate turn-in as civil addicts.

13 No, that is not available to the felons at this  
14 time.

15 CHAIRMAN BURTON: Because of money, basically?

16 MS. GORDON: Yes.

17 CHAIRMAN BURTON: Do you have any views on  
18 punishment options, which some call alternatives to  
19 incarceration? What would make sense instead of the high cost  
20 of bringing people into the system, that some type of punishment  
21 options that will be available on the outside?

22 MS. GORDON: Do I personally have opinions on  
23 that? Is that what you're asking?

24 CHAIRMAN BURTON: That's what I'm asking.

25 MS. GORDON: Yes, yes, sir, I do. I have some  
26 opinions. Would you like me to share them with you?

27 CHAIRMAN BURTON: A couple.

28 MS. GORDON: Well, I think that we need to take



1 into consideration all the options we have because we cannot  
2 build our way out of, or build enough beds to house many of the  
3 people that have committed crimes. So, we need to have some  
4 other alternatives.

5 And one of the other alternatives would be for  
6 offenders that have substance abuse problems. I think that some  
7 of those low-end offenders like that could be housed in areas  
8 where they could get treatment for their substance abuse.

9 CHAIRMAN BURTON: Any other questions.

10 SENATOR KNIGHT: Yes, Mr. Chairman, one question.

11 CHAIRMAN BURTON: I'd like to welcome Colonel  
12 Knight to the Committee.

13 SENATOR KNIGHT: I'm the new guy on the block.

14 CHAIRMAN BURTON: You people aren't supposed to  
15 comment for two weeks.

16 SENATOR KNIGHT: I was wondering, your  
17 educational programs, do you have enough to provide educational  
18 programs to all inmates?

19 MS. GORDON: Academic just primarily or  
20 vocational and academic?

21 SENATOR KNIGHT: Vocational, work programs, et  
22 cetera, to prepare for parole.

23 MS. GORDON: No, I don't think so. I would like  
24 to have more.

25 SENATOR KNIGHT: Then following that, is there a  
26 screening process to determine those inmates that will be most  
27 likely to succeed on the outside as opposed to those most likely  
28 to return, before you take up those precious vocational training



1 programs?

2 MS. GORDON: No, we do not have a screening  
3 process that meets that criteria.

4 SENATOR KNIGHT: My understanding is that there  
5 are a lot of inmates that, they go through the programs, and  
6 they'll tell you right up front, "I don't care what you do. I'm  
7 going to do what I want to do on the outside, and whatever you  
8 do in here isn't going to affect me in the least, so you're  
9 wasting your time."

10 Those people, I would suggest that maybe you  
11 don't spend the time on them. We don't spend the money. We at  
12 least give the people who are telling us that they're going to  
13 reform, they're going to be better citizens, and they're going  
14 to take advantage of everything they can.

15 There should be some screening process, I think,  
16 before we utilize those resources.

17 MS. GORDON: Yes, sir.

18 Generally speaking, in our classification  
19 committees, most of the inmates -- and I can only speak for CRC  
20 at this point, which has the civil addicts and the felons, and  
21 every inmate at that prison will parole in ten years or less.

22 Most of the inmates that we come across in  
23 classification are inmates that want to program. They do not  
24 generally tell us that they're not going to do anything on the  
25 outside, because if they do, then we do have the option, if  
26 they're not going to -- even if they say that, but they are  
27 willing to program in the prison, we still give them an  
28 opportunity to improve, and hopefully, they will do something

1 when they get out.

2 CHAIRMAN BURTON: Senator Ayala.

3 SENATOR AYALA: Ms. Gordon and I had a long  
4 discussion on her lapse of enforcing the law when it came to  
5 smoking within the prison. That goes for inmates as well as  
6 correctional officers.

7 But I believe that, as a matter of fact, I think  
8 your prison's going to be model prison for nonsmoking  
9 activity --

10 MS. GORDON: For inmates.

11 SENATOR AYALA: -- for the Department, and they  
12 have chosen your prison.

13 I think it's very apropos, because the building  
14 is not a stucco or cement. It's a structure made out of  
15 timber. It was a Navy hospital during World War II, and so that  
16 inmates starting a fire in that building would be one heck of a  
17 disaster. That thing would have burned up in no time at all.

18 And we've read where inmates have caused problems  
19 in other prisons throughout the country by setting their  
20 mattresses on fire, and so forth. So, I hope we learned a  
21 lesson from that, that we don't want these people smoking  
22 inside. That goes for correctional officers as well.

23 If they don't like it, they should look for job  
24 elsewhere, as far as I'm concerned.

25 Thank you.

26 MS. GORDON: You're welcome.

27 CHAIRMAN BURTON: Supporters, briefly.

28 MR. MABRY: Chairman Burton and the Rules

1 Committee Members, my name is Roy Mabry. I'm the State  
2 President for the Association of Black Correctional Workers.

3 I'm here representing our general membership  
4 today in one hundred percent support for Warden Gordon.

5 I'd like to welcome your newest Rules Committee  
6 Member, Mr. Knight.

7 CHAIRMAN BURTON: Others in support.

8 MR. SEARCY: I am Frank Searcy. I am President  
9 of the Chicano Correctional Workers Association.

10 Thank you, gentlemen and Chairman, for allowing  
11 us to be here this afternoon to offer our support for Ms. Gordon  
12 and her candidacy for Warden at that institution.

13 We recognize, as you do because you have her work  
14 experience and her resume, we all agree that she has a very,  
15 very good varied experience in the field of corrections, as she  
16 mentioned, starting at the bottom as a correctional officer.

17 So again, we offer our support, and we encourage  
18 and urge you to confirm her and the Committee for Warden at that  
19 institution.

20 Thank you.

21 CHAIRMAN BURTON: Next, sir.

22 MR. DURAND: My name is Flavio Durand. I'm a  
23 sergeant at the California Rehabilitation Center at Norco. I'm  
24 also a President for Norco Chapter. I was hoping Mr. Searcy and  
25 I would speak together.

26 But I am also supporting Ms. Gordon for Warden at  
27 the California Rehabilitation Center. I've known Ms. Gordon for  
28 many years, and she's a very fair woman. I know she'll do a

1 very good job there.

2 CRC Norco Chapter of CCWA, as well as the  
3 statewide association, will support Ms. Gordon also.

4 CHAIRMAN BURTON: Thank you.

5 Is there any opposition?

6 Now, Senator Hughes asked about retaliation  
7 against people that said bad things. Do we have favoritism for  
8 these people that say good things?

9 SENATOR HUGHES: Move.

10 CHAIRMAN BURTON: Moved by Senator Hughes. Call  
11 the roll.

12 SECRETARY WEBB: Senator Ayala.

13 SENATOR AYALA: Aye.

14 SECRETARY WEBB: Ayala Aye.

15 SECRETARY WEBB: Senator Hughes.

16 SENATOR HUGHES: Aye.

17 SECRETARY WEBB: Hughes Aye. Senator Knight.

18 SENATOR KNIGHT: Aye.

19 SECRETARY WEBB: Knight Aye. Senator Lewis.

20 SENATOR LEWIS: Aye.

21 SECRETARY WEBB: Lewis Aye. Senator Burton.

22 CHAIRMAN BURTON: Aye.

23 SECRETARY WEBB: Burton Aye. Five to zero.

24 CHAIRMAN BURTON: Congratulations.

25 MS. GORDON: Thank you.

26 CHAIRMAN BURTON: Lee Grissom is next.

27 Senator Peace.

28 SENATOR PEACE: Thank you, Mr. Chairman,



1 Mr. President, Members.

2 I have the pleasure today to introduce to you a  
3 gentleman whom I've known for a number of years. I know you  
4 have the history and the bio, and all the particulars with  
5 respect to his service before you, so I'm not going to replicate  
6 them.

7 But there is one particular historical note that  
8 is of particularly really pretty dramatic accomplishment that, I  
9 think, merely out of a sense of embarrassment in terms of not  
10 being one to promote himself too aggressively that Mr. Grissom  
11 tends to omit from his biography that I think really says it all  
12 about him.

13 This is a gentleman who, at his own volition,  
14 without any coercion whatsoever, volunteered his desk and his  
15 family's pictures to represent the Office of the Presidency of  
16 the United States in that great cult classic, "Attack of the  
17 Killer Tomatoes."

18 [Laughter.]

19 MR. GRISSOM: They've almost forgiven me, I might  
20 add.

21 SENATOR PEACE: Having that kind of courage, and  
22 of course, you must remember that this was a decision made in  
23 San Diego, not exactly either a -- well, I'm going to be  
24 careful. Let's just say there was some risk involved in taking  
25 that action.

26 I've had the pleasure to literally grow up in  
27 public life knowing Lee Grissom in one iteration or another  
28 throughout my entire adulthood. In each of those capacities,

1 whether working with the Chamber of Commerce, or in his various  
2 performances and opportunities in public service, he has always  
3 been a straight-forward representative, a person that I think  
4 all parties from various walks of life feel comfortable, not  
5 only going to in terms of attempting to seek answers and  
6 assistance, but frankly confiding in. A person who could put  
7 aside whatever the history or paths that led to a particular  
8 position or opportunity, and conduct himself in a manner that  
9 was consistent with the public service and the public charge,  
10 not just consistently, but always.

11 And I can give no other, no higher recommendation  
12 and with any greater level of confidence that would not be  
13 contradicted or embarrassed in the future than to suggest for  
14 your consideration, as strange as it may be that he wants the  
15 job, your confirmation of Mr. Grissom.

16 MR. GRISSOM: Thank you very much, Senator.

17 CHAIRMAN BURTON: Thank you, Senator.

18 If you want to give a brief statement, then I've  
19 got a couple of questions for you.

20 MR. GRISSOM: Sure, Mr. Chairman.

21 Thank you very much, Mr. Chairman, Members of the  
22 Committee.

23 For the record, my name is Lee Grissom. I was  
24 raised in San Diego, was a graduate of San Diego State,  
25 undergraduate and graduate school.

26 As Senator Peace indicated, I spent about 19  
27 years as President of the San Diego Chamber of Commerce. While  
28 I did most of the traditional things you would expect of an

1 organization like that, certainly business advocacy, it was also  
2 very creative. One of the things it did start in the middle  
3 1970s was the Film Bureau.

4           Shortly after we started it, I got a call from a  
5 young man who said, "It's one thing to entice companies from  
6 Hollywood to come down here and use the production facilities,  
7 but why don't you help some of the home-grown?" And it was a  
8 little production unit called Four Square Productions, and they  
9 were doing a movie called "Killer Tomatoes."

10           I did actually -- was back in Washington for a  
11 week. And they used my office as the Office of the President of  
12 the United States. They liked the windows. They did keep my  
13 family pictures up on the wall, and they have almost forgiven me  
14 by now.

15           It was an interesting organization and rather  
16 creative. It started an economic development corporation in San  
17 Diego. It applied in the 1980s for a small business grant from  
18 the federal government, which set up a small business assistance  
19 center that was later used by Assemblyman Katz and Senator  
20 Roberti as the model for the state program, and it was very  
21 involved with international trade, sending more than 50 trades  
22 missions throughout the world during the time I was there.

23           It did some things that were rather unusual for  
24 an organization like that. On one occasion, for example, we  
25 asked for a county grand jury investigation into the issuance of  
26 a multi-million dollar contract. We thought that fraudulent  
27 activities had taken place. A year later, after our request,  
28 and the grand jury investigation completed, they handed down 103



1 pages of indictments, many of them RICO related. Three people  
2 went to jail, six people lost their jobs, and the contract was  
3 changed.

4 We also did something rather unusual. On one  
5 occasion, our largest member, which in fact was a utility in San  
6 Diego, wanted us to support a merger with So-Cal Edison. We  
7 thought it wasn't in the best interests of the community,  
8 knowing full well we would lose our largest member. When we did  
9 that, later on they did, in fact, remove their dues and didn't  
10 reinstate them until I came to Sacramento.

11 In addition to the Chamber activities, I spent  
12 four years as Chairman of the Housing Commission in San Diego  
13 when we created the first single-resident occupancy hotel built  
14 in United States in 50 years, for which I was honored by St.  
15 Vincent de Paul for a commitment to homeless. And I spent  
16 almost eight years as a Trustee with the California State  
17 University system, representing the 400,000 alumni of that  
18 system.

19 Governor Wilson asked me in January of '91 to  
20 help organize the Council on California Competitiveness, which  
21 was Chaired by Peter Ubberoth. I did that; worked very closely  
22 with Assemblyman, at the time, Vasconcellos on the ADEPT  
23 program. We didn't consult, but we coordinated, reached many of  
24 the same conclusions.

25 At the completion of that, the Governor asked me  
26 in June of 1992 to come up here and be a senior advisor on  
27 economic development. I came. About six months later, he asked  
28 me to take on additional responsibility as Director of his



1 Council of Economic Advisors, which was and is Chaired by George  
2 Schultz. And then a few months after that, I was appointed  
3 Director of Planning and Research.

4 I have served, at the appointment of the  
5 Governor, as Secretary of Trade and Commerce since August. I  
6 have found the job demanding. I've found it involving. It is a  
7 very interesting agency. In some ways I feel as if my whole  
8 life was preparation for this particular job.

9 It is clearly staffed by some of the most  
10 talented people it's ever been my honor to work with. And it's  
11 also clearly an organization that's needed in California.  
12 Economic development needs an advocate in this state.

13 When Rose Ann Vuich authored the bill, I think it  
14 resonated with Members of both parties.

15 But the Agency clearly understands, it's not just  
16 business, but it is clearly government, local governments that  
17 also need assistance. And so, we spent a lot of our time  
18 working with local government units.

19 If I have a special predisposition, it's towards  
20 small business. In the 1980s, when 17 million jobs were created  
21 in the United States, Fortune 500 lost several hundred thousand.  
22 In fact, Fortune 1,000 didn't do much better. Those jobs were  
23 created primarily by small and larger businesses -- small and  
24 mid-sized businesses getting larger. That, I continue to  
25 believe, is the base of the strength of the California economy,  
26 and certainly our national economy as well.

27 I do believe that it's important that government  
28 play a supportive and not a competitive role. And I think it's

1 important that government always be a watchdog to make sure its  
2 efforts don't move into a competitive arena.

3 Thank you, Mr. Chairman.

4 CHAIRMAN BURTON: How many exempt employees are  
5 there at the --

6 MR. GRISSOM: I believe right now we are  
7 scheduled for 318, and we're --

8 CHAIRMAN BURTON: Exempt?

9 MR. GRISSOM: Oh, I'm sorry. Exempts, I believe  
10 there are about 30. Part of that --

11 CHAIRMAN BURTON: How many formerly exempt  
12 positions have been passed over into civil service, do you know?

13 MR. GRISSOM: Sir, I do not know that.

14 CHAIRMAN BURTON: I wonder if you could get us  
15 that. The information would be, how many that used to be exempt  
16 that have then been transformed into civil service, and whether  
17 the same person who had the exempt job now basically has got the  
18 civil service position.

19 MR. GRISSOM: So, you would like to know how many  
20 exempts are there, and also how many formerly exempts.

21 CHAIRMAN BURTON: How many formerly exempt slots  
22 have been transitioned to civil service, and whether the same  
23 person who was the exempt is now civil service.

24 MR. GRISSOM: We will supply you with that  
25 information.

26 CHAIRMAN BURTON: Thanks.

27 The Agency's had a practice of paying employees  
28 in Mexico City in pesos rather than dollars?

1 MR. GRISSOM: Yes, sir. As a matter of fact, the  
2 Agency follows federal guidelines, and also local laws that  
3 apply to the payment of employees.

4 In the Mexico City case, our Director there,  
5 R. C. Schrader, had hired two people as consultants and was  
6 paying them in pesos.

7 I have changed that policy, and we are now  
8 providing -- whichever currency the employee would like to  
9 receive, the compensation is, is the way that they will be paid.

10 CHAIRMAN BURTON: On overseas trips, and it's got  
11 nothing to do with you. It's got most to do with overseas  
12 trips.

13 Has there ever been any concrete evidence of job  
14 creation, direct foreign investment as a result? Or, just kind  
15 of a nice trip, see what we can do, and not such happens?

16 I was very surprised the President of San  
17 Francisco State, I needed him to do something, and he only had  
18 two days because he was going over to China. I says, "I guess  
19 you're going to do a lot of exchange student work." I was  
20 giving him a little sarcastic shot, and he acted like I was  
21 serious.

22 Do you see, you know, like the cost of these  
23 trips to the taxpayers versus real benefit, as opposed to just  
24 sort of rationalization benefit?

25 MR. GRISSOM: I think it's fairly easy to justify  
26 not only the trips that are made by senior members of the  
27 Agency, but also the existence of the overseas offices.

28 We keep very detailed statistics on that. While



1 I have been a Secretary, since August, I've been on three  
2 overseas trips. The first one was, let's take 48 California  
3 companies to London in October, where we presented them to 400  
4 potential investors. In fact, at that particular meeting, we  
5 were able to identify one company from the previous year that  
6 had a \$25 million contract.

7 In addition we have been able to now, since I've  
8 been Secretary --

9 CHAIRMAN BURTON: You went over there this year,  
10 and you were able to identify somebody who had a contract last  
11 year?

12 MR. GRISSOM: We were able to take --

13 CHAIRMAN BURTON: You could have done that  
14 without a trip.

15 MR. GRISSOM: Well, except that we were taking 48  
16 companies that had not been on the previous year's trip and  
17 introducing them to 400 investors. And those are the contracts  
18 that we're working on right now.

19 CHAIRMAN BURTON: If you could get us, you know,  
20 to the extent you can, not just the trips you've been on, but  
21 trips taken, the cost of the trips, and basically the benefit.

22 I've got one more question, then I'm going to  
23 hand the gavel over to Senator Lewis because I have to go make  
24 an appearance somewhere else.

25 I believe you're talking about opening three  
26 more, four more trade offices, you know, overseas jobs for  
27 people.

28 MR. GRISSOM: The Governor's Office -- excuse me,



1 the Governor's budget has proposed that three new offices,  
2 actually representation, be opened in Sao Paulo, Brazil, in  
3 Shanghai, and Singapore.

4               However, I have changed the policy from the  
5 earlier Secretary. I think when any business goes into an area,  
6 instead of going in and opening up an office, and fully staffing  
7 it, and fully equipping it, I think one of the things that you  
8 should do is go in, hire a representative there, and detail to  
9 them a mission statement, clear objectives, and the strategy,  
10 and see if, in fact, the market that you've identified is there,  
11 and if it can be brought to fruition.

12               If it has, then I believe you go in, and then you  
13 staff it.

14               So, the first -- these offices would really not  
15 be offices in the traditional sense, but really would be  
16 retaining of representation in those areas.

17               CHAIRMAN BURTON: Well, that's 250 grand an  
18 office for a representative. That's not a bad salary.

19               MR. GRISSOM: If you include everything -- I  
20 mean, that includes, you know, their office and all their  
21 expenses.

22               CHAIRMAN BURTON: They're not consultants doing  
23 anything else? They're going to be sole employees of the State  
24 of California?

25               MR. GRISSOM: In some cases. As you know, and  
26 in, for example, in Israel, we have a representative that does  
27 have other clients.

28               We're certainly going to insist that they have no

1 other clients that would compete with California.

2 CHAIRMAN BURTON: The point I'm making, I'm a  
3 consultant. I've got an office anyway. I'm paying rent. I'm  
4 paying secretaries. I'm paying phone. I'm paying FAXes.

5 MR. GRISSOM: Right.

6 CHAIRMAN BURTON: So, to say you're giving me 250  
7 grand, and that's supposed to cover an office and overhead, I've  
8 already got an office and overhead that I'm taking care of now.

9 MR. GRISSOM: Well, I'll tell you, they will be  
10 competitively bid. And obviously, the best deal that we can get  
11 for California taxpayers is the way we're going to proceed.

12 CHAIRMAN BURTON: I would think, and I don't know  
13 what subcommittee this goes to, I'm wondering whether or not  
14 there ought to be legislation.

15 But anyway, I just think that, and not just this  
16 place, but everybody kind of goes huckelty-buck having these  
17 offices over there, to what benefit, I'm not sure.

18 They go over there and bring businesses from  
19 Singapore over here. Or, bringing businesses from here over to  
20 Singapore, where they can end up putting American workers out of  
21 work, and building something over there, and then bringing it  
22 back here for Californians or someone to buy it.

23 Again, this is not aimed at you, but I don't know  
24 if that's a noble use of taxpayers' money, to help jobs get sent  
25 overseas.

26 MR. GRISSOM: Senator, we don't actually do that.  
27 We have two primary functions.

28 The first is to assist in developing exports from

1 California to other locations. And secondly is to identify  
2 inbound investment, people coming into California. Like  
3 Maschusta came into Torrance, and a number of other companies  
4 have come in throughout the state, sir.

5 SENATOR HUGHES: May I ask a follow-up on that.

6 What about the amount of corporate downsizing  
7 that is taking place? And before, people felt a little bit more  
8 secure because the economy was up, but now some of the  
9 corporations are firing and laying off people.

10 What is your Agency's role in this entire  
11 process, or what is the role as you perceive it?

12 MR. GRISSOM: Specifically as it relates to  
13 corporate downsizing?

14 SENATOR HUGHES: Yes. What can you do to  
15 stabilize, to assist the population as we have this downsizing?  
16 Or do you feel that the Agency has a role?

17 MR. GRISSOM: Senator, when I came to Sacramento,  
18 California was losing 900 jobs a day, every single day.  
19 California had reached the point where its reputation throughout  
20 the country, and certainly among companies in California like  
21 Intel and others, was that California didn't need business;  
22 business needed California. And California didn't need to  
23 support, and didn't need to have a competitive tax policy,  
24 didn't need to have a stream-lined regulatory policy. You know,  
25 all it needed to do was simply sit here and companies were going  
26 to come.

27 We were hammered with base closures, but more  
28 importantly, we had to send a message. We had to market



1 California, and we had to make some structural changes that were  
2 very important.

3 I think what we've done in international trade,  
4 where now 25 percent of the jobs in this state are directly tied  
5 to foreign investment or international trade, I think that's  
6 been a very, very important part of it.

7 Even with the Asian financial crisis, the third  
8 quarter figures show that exports from California are up 4.5  
9 percent over the previous year. A lot of that is because of  
10 Mexico; 32 percent. People were arguing a couple years ago that  
11 we should have closed the Mexican office.

12 Our Agency is an advocate for California's  
13 economy. It is an advocate for economic development. It will  
14 assist it in any way it can, from film production to enterprise  
15 zones, to the assistance and the promotion of tourism. That is  
16 our main function.

17 As you know so well, we have many, many programs  
18 for small businesses. And I think those are absolutely  
19 critical to increase job production in California. So, last  
20 year we added 479,000 new jobs. That's about 1350 each day.

21 This body, and your colleagues in the Senate  
22 and the Legislature, deserve a great deal of credit for a lot of  
23 the changes that have been taken. And I believe that the  
24 Agency, which was created by you to do this kind promotion,  
25 deserves credit as well.

26 SENATOR HUGHES: What about small cities? You're  
27 talking about big cities like San Diego, and San Francisco, and  
28 Los Angeles.



1                   What about small cities where there are potential  
2 entrepreneurs who want to open a business? What kind of  
3 assistance does your Agency give, and how broadly do they spread  
4 this information about how people can get assistance in that  
5 regard?

6                   That's something that I'm interested in for a lot  
7 of the small businesses that I represent.

8                   MR. GRISSOM: And I certainly understand that.  
9 And as I said before, that's where the future is.

10                  SENATOR HUGHES: How do you get the word out?  
11 That's my question. Or are you getting the word out, or do some  
12 people know, other people don't know?

13                  MR. GRISSOM: I would be willing to say that some  
14 people know and some people don't know. And that we should try  
15 harder make sure that as many people as possible know.

16                  As you know, I think if you've read the LAO  
17 Report, you saw that we were hammered because they were  
18 criticizing us for desiring to increase our small business  
19 funding.

20                  That is a program -- that is a program that we  
21 leveraged to \$90 million a year. That is a program for which  
22 people are only qualified if they have been turned down by a  
23 bank. Our default rate on that is 2.8 percent. I think that is  
24 unbelievably small, considering that we're working with people  
25 that are really at risk.

26                  So, through the eight offices that we have  
27 throughout the state marketing those loans, through the four  
28 regional offices, and through staff members going out and

1 putting on the forums, and working with good groups, like Cal.  
2 Ed., groups that understand the grassroots, that understand the  
3 business communities, those -- I think that we make a real  
4 strong outreach.

5 But I'm sure the Senator could point to me areas  
6 where we need to improve our efforts. And if you do that, I  
7 will certainly take that leadership.

8 SENATOR HUGHES: Good, I'll have someone from my  
9 staff work with your staff.

10 MR. GRISSOM: Thank you, Senator.

11 SENATOR HUGHES: I'd like to help you help us  
12 help ourselves.

13 SENATOR LEWIS: Mr. Grissom, I've been getting a  
14 lot of contacts from travel agents in my district that have  
15 expressed concern about a program that they believe is competing  
16 with them unfairly.

17 MR. GRISSOM: I'm very much familiar with this.

18 SENATOR LEWIS: Can you just give us a little  
19 update on where that stands now?

20 MR. GRISSOM: Sure. As you undoubtedly know,  
21 that was a contract that was negotiated before I became  
22 Secretary, and it has two parts: one, traditional distribution  
23 of publications and brochures for the state; the other half  
24 called for the creation of a computerized reservation system  
25 through the Agency's or, actually, the Division's Web site.

26 When that went on line in early December, and  
27 then the 1-800 number in early January, the travel agents  
28 throughout California were very, very upset about it.

1                   My Deputy Secretary met with them. Thought they  
2 had some legitimate issues; thought he had been able to  
3 accommodate their needs. On February 4th, there was an  
4 Assembly committee that met on this issue. It was obvious at  
5 that time that he had not accommodated their needs.

6                   My staff committed that we would do two public  
7 hearings on it, one in the south and one in northern California.  
8 At the request of the Chair of that committee, Susan Davis from  
9 San Diego, the first one was done in San Diego.

10                  I decided at that time that I would step in, find  
11 out what the problem was, see if we couldn't resolve it.

12                  I will tell you that I have some real serious  
13 problems with that system. One is, I have a fundamental  
14 question if this is a role of government. Should government be  
15 doing this kind of thing.

16                  Number two, I wondered about what our liability  
17 is.

18                  Number three, I'm concerned about what might  
19 happen if, for example, a person has something bad happen to  
20 them in one of these. What kind of oversight does the state  
21 have.

22                  And finally, I'm really concerned about the issue  
23 of competition.

24                  It is interesting. I have received several  
25 hundred letters for, several hundred against. Almost all the  
26 ones against have been from travel agents. They're the very  
27 group, incidentally, who had themselves successfully taken out  
28 of the Tourism Partnership Assessment Act because they felt that



1 basically they were sending people out of California and not  
2 into California.

3 But I think the issue they bring up of  
4 competition is one that clearly needs to be addressed and, if  
5 possible, accommodated.

6 Most of my letters in favor of it have come from  
7 very small, small bed and breakfasts or small hotels.

8 SENATOR LEWIS: Where does it stand right now?

9 MR. GRISSOM: Currently, I have reviewed the  
10 findings of the two hearings. I have directed staff to pull  
11 together an equal number of people for it and against it.

12 I will try to reach accommodation. I am  
13 continuing the suspension of the system. It was suspended for  
14 60 days starting about the 4th of February.

15 I will continue that suspension in effect until  
16 either this group comes up with a resolution upon which we will  
17 then hold additional public hearings, or until I'm assured that  
18 it's not a competitive situation that works to the ill of  
19 California businesses.

20 SENATOR LEWIS: Thank you.

21 I apologize. I'm going to have to leave, and I  
22 will be turning over the gavel to Senator Hughes now, so we go  
23 down the line.

24 Before we get to Senator Ayala, I would like to  
25 be recorded though on this, so could I make the motion for  
26 confirmation, and please call my name.

27 SECRETARY WEBB: Senator Lewis.

28 SENATOR LEWIS: Aye.



1 SECRETARY WEBB: Lewis Aye.

2 SENATOR AYALA: Mr. Grissom, I have the same  
3 questions that Senator Lewis had. I had a number of letters in  
4 opposition to that policy of competing with the free enterprise  
5 system.

6 I was surprised, because this is a Republican  
7 administration. That's a no-no for Republican philosophy, that  
8 you compete with private enterprise.

9 Why in the world would you even consider doing  
10 such a thing?

11 MR. GRISSOM: Senator, I was not there at the  
12 time.

13 SENATOR AYALA: I'm sorry?

14 MR. GRISSOM: I was not Secretary whenever the  
15 contract was negotiated. It was done --

16 SENATOR AYALA: I understand you're having  
17 hearings on it?

18 MR. GRISSOM: Yes, sir. I had two public  
19 hearings: one in Southern California, and one in San Francisco.

20 I am now pulling together a group of people that  
21 are opposed to it and people in favor of it to find out if there  
22 is some kind of a system that can be developed that could  
23 accommodate the needs of the travel agents. Could this become  
24 a tool that could assist them in their task, if you will, in  
25 their profession.

26 I'm also seriously questioning if government  
27 should be in this at all.

28 Based upon the findings of that, I will then hold

1 additional public hearings, see if there's, you know, additional  
2 opposition. If there is, then I will have to make a decision  
3 myself.

4 SENATOR AYALA: The Defense Conversion Council is  
5 scheduled to sunset this year. How does the Agency intend to  
6 deal with the consequences of continued downsizing of California  
7 military bases?

8 MR. GRISSOM: Senator, as you know, California  
9 was hit with 29 major closures or realignments. The next state,  
10 by the way, was Pennsylvania with ten, and there was Virginia  
11 with nine. I mean, we got hammered.

12 If you add up all the jobs that were lost in all  
13 the other states, California lost 50 percent more.

14 What the Governor is proposing to do is really  
15 make permanent our Base Closure Task Force, and make it  
16 permanent within the Agency.

17 We've had actually our first statewide meeting of  
18 communities that are likely to be impacted in the next round,  
19 which now looks like it'll be 2001, and the second round in  
20 2005. We want to make that a permanent component of the Agency.  
21 We want to work with the communities, and then we want to  
22 provide the very, very best defense.

23 I'll tell you one thing that concerns me already  
24 is, there's a thing called Mission Bleed -- I'm sure that  
25 Senator Knight would be aware of that -- where they make the  
26 decisions, basically leave a hollow base. I mean, they really  
27 transfer away quietly missions and responsibilities to other  
28 places, so you're left with nothing but a shell. And then they

1 come in and they say, "Well, there's nothing there to protect  
2 anyway."

3 So, we have a very strong group right now working  
4 with that, working with the Pentagon, working with David  
5 Whetmore in our Washington, D.C. office, and working with  
6 Members of Congress to make sure that that's not happening.

7 So, we'll set it up as a permanent facility,  
8 fully staffed, and work with our Congressional delegation to  
9 protect the units.

10 SENATOR AYALA: That was my next question. What  
11 strategy are you using for keeping the aerospace industry in  
12 California? What is the potential for accomplishing that?

13 MR. GRISSOM: You know, you're obviously very  
14 much aware of what's happening around Edwards and around  
15 Vandenburg with the X-33.

16 We have now three -- we've got that, and we've  
17 got the Strike Fighter, and obviously we're working with the  
18 other -- as the mergers go on, or now one of them might not go  
19 on, we have three Red Teams that are working specifically on the  
20 X-33 and its next generation.

21 SENATOR KNIGHT: Venture Star.

22 MR. GRISSOM: Venture Star, yes, sir.

23 They've already indicated that they will get down  
24 to the short list in August, and that they will go out in the  
25 fall, and finally make, I think, make the final decision in  
26 '99.

27 We have three Red Teams. One that's working with  
28 the state as a whole entity, and two that are working with



1 target areas specific: one with Edwards, and one with  
2 Vandenburg. The Director of our Los Angeles regional office is  
3 the chair of those Red Teams.

4 Just a couple of days ago, I reviewed a ten-page  
5 action plan to make sure that those projects remain in  
6 California. And we have already had spot bills introduced to  
7 protect certain components, either having to do with tax credits  
8 for equipment or materials that would be used in production,  
9 maybe setting up special, like, enterprise zone type things for  
10 tax advantages and training programs for employees.

11 It's a high priority for this administration and  
12 for this Agency, because aerospace and everything related to it  
13 has been such a part of the seed corn of California's  
14 technology.

15 SENATOR AYALA: Thank you very much.

16 SENATOR HUGHES: Senator Knight.

17 SENATOR KNIGHT: There is a program, a federally  
18 mandated program, concerning underground storage tanks.

19 MR. GRISSOM: Yes, sir.

20 SENATOR KNIGHT: I've got an awful lot of small  
21 businesses in my district that are coming up on that deadline,  
22 which is the 22nd of December, for the removal and replacement  
23 of those tanks.

24 There was a program also established to provide  
25 small interest loans for the accomplishment of those  
26 change-outs.

27 There is no money in the program. The people in  
28 the small businesses cannot afford to make those tank



1 swap-outs. They can't afford to do it by the 22nd of December.  
2 There's a whole lot of them that are going to go out of  
3 business. I think the figure I saw was 30,000 of these small  
4 businesses that have not been funded.

5 Is there a plan of any sort to take care of these  
6 small businesses? Do we have a plan at all, or is there  
7 anything we can do to extend that deadline?

8 MR. GRISSOM: Senator, the RUST Program, as it's  
9 called, as you know, is within the Agency. We have asked and  
10 received additional funds at the state level for the removal of  
11 those.

12 I do not know if the deadline is a federal  
13 deadline or a state deadline.

14 SENATOR KNIGHT: It's a federal deadline.

15 MR. GRISSOM: Then we would certainly work with  
16 our Washington office to see if the deadline couldn't be  
17 extended.

18 I certainly will work -- I don't believe there  
19 are 30,000 in California. Is that what you're suggesting?

20 SENATOR KNIGHT: It's 30,000 tanks.

21 Let me ask you another question right along with  
22 that. Within that budget, there is EPA clean-up funding. Now,  
23 the clean-up funding has no deadline. There is no cutoff for  
24 clean-up.

25 Is there any way we can move some of those funds  
26 over to a program that has a deadline in order to save the  
27 businesses in California? You know, it would appear logical,  
28 since clean-up doesn't have a deadline, that we could save these

1 businesses with some of those funds, and it's all out of the  
2 same budget.

3 MR. GRISSOM: Right.

4 Senator this is an issue I certainly will look  
5 into certainly would support it. The last thing we want to do  
6 is drive California businesses --

7 SENATOR KNIGHT: Well, me, too.

8 MR. GRISSOM: -- out of business, be they travel  
9 agents or anything else.

10 But this is an issue that I appreciate you  
11 bringing to my attention.

12 SENATOR KNIGHT: I think it's a serious issue,  
13 because speculation is there's going to be numerous small gas  
14 stations go out of business. You may have to go many miles in  
15 order to get gas come November and December.

16 MR. GRISSOM: In a lot of your district, I have  
17 to do that anyway.

18 [Laughter.]

19 SENATOR KNIGHT: But maybe you won't even be able  
20 to get through the district.

21 MR. GRISSOM: If I run out of gas, I will now  
22 know why.

23 SENATOR HUGHES: Further questions, Senator  
24 Knight?

25 SENATOR KNIGHT: No, that'll do it, Senator  
26 Hughes. Thank you.

27 SENATOR HUGHES: Senator Ayala.

28 SENATOR AYALA: One more question.

1                   You have the underground storage tank loan  
2 program. How is that coming out? They were supposed to earmark  
3 to help the small businessmen. Are you out of funds for that  
4 program now?

5                   MR. GRISSOM: There are funds. As you know, it  
6 was supplemented. I believe it was supplemented last year.

7                   Staff has led me to believe that we have adequate  
8 moneys to accommodate it now, but Senator Knight brought up an  
9 issue of which I was not aware, and I certainly will look into  
10 that. If there are additional funds necessary, we will work  
11 with the Department of Finance to place those into the May  
12 Revise.

13                  SENATOR AYALA: It's my understanding that the  
14 initial target was the small businessperson, service station  
15 operators. I was just wondering how the program's working? How  
16 is it working out? Is it really doing the job it was intended  
17 to do?

18                  You can tell me later.

19                  MR. GRISSOM: I'd be delighted to do that.

20                  SENATOR KNIGHT: Senator Ayala and Mr. Grissom, I  
21 would suggest that there are no funds available for those small  
22 programs, and even further, that because there are no funds  
23 available, they're not even taking applications in order to  
24 request funds in support of that program. So, I think it's  
25 serious.

26                  MR. GRISSOM: If that is the situation, Senator,  
27 it is very serious.

28                  SENATOR HUGHES: I'm happy to report that in my

1 neighborhood, a small gas station that had been there for many,  
2 many years, and disappeared and closed up about four or five  
3 years ago, I passed going to church yesterday, and they're  
4 coming back. Another company is coming back to that location.  
5 And I am delighted.

6 I don't know who decided they'd come back, but  
7 everyone in our neighborhood is proud.

8 So, if that is a trend that's happening, I think  
9 it's good. I don't know who gets the credit for it.

10 SENATOR KNIGHT: Well, if it's one of the major  
11 companies --

12 SENATOR HUGHES: Yes, it is. And it was a major  
13 company that left.

14 SENATOR KNIGHT: They can afford to swap out the  
15 tanks, and that's what's happening. In the small businesses,  
16 you're going to find they're going to go out of business.

17 MR. GRISSOM: Senator, I may have good news and  
18 bad news for you. The good news is that they're back. The bad  
19 news is, the prices may be higher than they were.

20 SENATOR HUGHES: Well, it may be true, but prices  
21 of gasoline are higher than they were when they closed, period.

22 But the people in our community really had quite  
23 a distance to go. If they got home and just had a little bit of  
24 gas, they couldn't go anywhere else because they had to go quite  
25 a distance to another gas station.

26 So, I hope this continues to be a trend.

27 Senator Knight.

28 SENATOR KNIGHT: One other.



1                   You mentioned the fact of mission depletion  
2 within various bases. To follow up on that, the acting  
3 Secretary of the Air Force has already put out a statement  
4 indicating that he has the authority to, in essence, close bases  
5 today without a BRAC. And that he does it in just that manner.  
6 He can move 300 people without anybody's control, and he can  
7 move missions without anybody's control. His statement  
8 indicated that he will, in fact, close bases if there are no  
9 BRAC, and it'll be at his discretion.

10                   And I think it's incumbent on us to get a  
11 Secretary of the Air Force as soon as possible, because he's  
12 going in the wrong direction.

13                   MR. GRISSOM: Senator, actually, I read that  
14 quote. And soon thereafter, of course, he was hammered by a  
15 number of Members in Congress about it.

16                   SENATOR KNIGHT: Sure.

17                   MR. GRISSOM: And there was no question that it  
18 was an attempt -- speculation was it was an attempt on the part  
19 of Secretary Cohen to push Congress closer to setting the date  
20 for the next BRAC rounds.

21                   But the thing that worries me is that, we see  
22 that already, and see it across services. That's why our Base  
23 Reuse Task Force so important to be funded in this session.

24                   SENATOR KNIGHT: We see that at Edwards Air Force  
25 Base, and everybody says Edwards Air Force Base is so critical,  
26 there's no way in the world you can close Edwards Air Force  
27 Base.

28                   I've said for years, the lake bed isn't going to

1 go anywhere. The facilities aren't going to go anywhere. NASA  
2 Dryden is still in the north end of the lake bed, and you can  
3 take all the military out of there, and you'll still have a lake  
4 bed, you'll still have a facility, but no more Edwards Air Force  
5 Base.

6 That's what General Batten has already said.  
7 We've had him out there two or three times, and you ask him,  
8 "Are you going to close Edwards Air Force Base?"

9 "No, no. We don't intend to close Edwards Air  
10 Force Base."

11 But the reduction in personnel is going from some  
12 4800 to down to about 2800, and about 3,000 is a minimum for  
13 operating a base there to maintain the commissaries, the PXs,  
14 the MWRs, the housing, the recreational facilities, hospitals,  
15 all of the things necessary. It won't be able to support it.

16 SENATOR HUGHES: Have you concluded your  
17 questions? Thank you.

18 Now, let's hear from the proponents of  
19 Mr. Grissom. Anyone here to testify on his behalf?

20 MR. MONAGAN: Madam Chair and Members of the  
21 Committee, I am Bob Monagan, Chairman of the California State  
22 World Trade Commission.

23 I'm here to personally urge the confirmation of  
24 Mr. Grissom for this assignment. I'm sure I reflects all of the  
25 members of the World Trade Commission in making that  
26 recommendation to you.

27 Senator Peace, in introducing Mr. Grissom,  
28 alluded to his very broad and great experience that he's had in

1 a great number of fields. I would only testify that I had the  
2 experience of working with Mr. Grissom for a long period of time  
3 on the economic development side of things, and more recently in  
4 the World Trade experience with him.

5 He is a very unique individual, and I think we're  
6 very fortunate that one of our citizens would come forth and be  
7 willing to serve in this kind of assignment. He's had a vast  
8 amount of experience, a great deal of knowledge, direct working  
9 in all of these fields, and I think he brings not only that  
10 experience, but a certain kind of personality that's very good  
11 in dealing with these very complex issues, as the Senators have  
12 pointed out in some cases, and in the diplomatic world, where  
13 we're dealing with foreign countries and foreign businesses.

14 So, I am just personally pleased to add my  
15 endorsement and urge a quick confirmation of Mr. Grissom.

16 SENATOR HUGHES: Thank you very much.

17 MR. SCHELL: Senator Hughes, Members of the  
18 Committee, my name is Wayne Schell. I'm the President and Chief  
19 Executive Officer of the California Association for Local  
20 Economic Development. We represent approximately 800-plus local  
21 economic developers across California.

22 All of your districts have economic development  
23 organizations in the district: counties, cities, and private  
24 nonprofit organizations. These are sort of the arms and the  
25 legs in the field for the Trade and Commerce Agency. These are  
26 the people who implement many of the programs and activities.  
27 These are the folks on the street, working with the businesses  
28 on a daily basis.



1 I'm here today to tell you that we very much  
2 support Mr. Grissom's appointment in this position. He's been a  
3 part of the local economic development network for years. He's  
4 responsible for establishing a development corporation in San  
5 Diego that is still very engaged today in international trade  
6 and many other activities.

7 By the way, Senator Hughes, we have just  
8 implemented a new venture program in rural California, in  
9 Northern California. And I'd be very happy to share that with  
10 you sometime. It's the first of its kind in the state for small  
11 communities. It's an experiment that we hope will have great  
12 success in the future. So, I'm here today to let you know that,  
13 as well as to obviously support my good friend, Lee Grissom, in  
14 his appointment.

15 SENATOR HUGHES: Thank you very much. I look  
16 forward to receiving that information.

17 Next witness, please.

18 MS. KELLY: I'm Anne Kelly here today on behalf  
19 of Anheuser-Busch and its subsidiary, Sea World. The managers  
20 and workers at Sea World have had a long and very wonderful  
21 relationship with Mr. Grissom, and saw that area blossom, as you  
22 know, under his leadership during time he was there.

23 The company basically believes that California  
24 would be well-served to have him lead the Trade and Commerce  
25 Agency.

26 Thank you.

27 SENATOR AYALA: Madam Chair, I notice that  
28 Mr. Grissom was selected as one of ten outstanding young men in



1 America. Then I notice it was 1978.

2 [Laughter.]

3 MR. GRISSOM: President Clinton was in the Class  
4 of 1979.

5 SENATOR HUGHES: He's young at heart.

6 Anyone opposed to the confirmation, please come  
7 forward.

8 SENATOR AYALA: Move the confirmation.

9 SENATOR HUGHES: We have a motion. Secretary  
10 call the roll.

11 SECRETARY WEBB: Senator Ayala.

12 SENATOR AYALA: Aye.

13 SECRETARY WEBB: Ayala Aye.

14 SECRETARY WEBB: Senator Hughes.

15 SENATOR HUGHES: Aye.

16 SECRETARY WEBB: Hughes Aye. Senator Knight.

17 SENATOR KNIGHT: Aye.

18 SECRETARY WEBB: Knight Aye.

19 SECRETARY WEBB: Senator Burton asked to be  
20 added, and Senator Lewis already is. That's five to zero.

21 SENATOR HUGHES: Unanimous confirmation,  
22 congratulations to you.

23 MR. GRISSOM: Thank you very much, Senator.

24 SENATOR HUGHES: Our next person is Conrad  
25 Hewitt, Commissioner of Financial Institutions, formerly the  
26 Superintendent of Banks.

27 Do you have an opening statement?

28 MR. HEWITT: Yes, I have few comments here I

1 would like to make.

2 I am Conrad Hewitt, Commissioner, Department of  
3 Financial Institutions. And thank you for providing me the  
4 opportunity to appear here today before you.

5 I was originally appointed in May of 1995 to be  
6 the State Superintendent of Banks, State of California. Then we  
7 created a new Department of Financial Institutions which became  
8 effective on July one of last year, 1997, when I assumed my new  
9 position. I was the last Superintendent of Banks, and now the  
10 first Commissioner of DFI.

11 DFI supervises the licensees of the old State  
12 Banking Department, and now the California State chartered  
13 credit unions, industrial loan companies, and savings and loans  
14 associations.

15 I want to provide you with just a brief overview  
16 regarding DFI and a few continuing trends I see with our  
17 California financial institutions.

18 As you may recall, DFI was created based on the  
19 core competencies concept, a notion that like businesses should  
20 be grouped together to provide greater efficiency and  
21 effectiveness. Thus, all of the depository financial  
22 institutions are now under one regulator instead of three  
23 regulators.

24 I am pleased to report that the creation of DFI  
25 has been very successful. DFI, upon its initiation, saved  
26 one-and-a-third million dollars the first year, and another  
27 million dollars this current year. We are also able better to  
28 see the changes and trends in our financial industry here in

1 California.

2 DFI supervises over five hundred financial  
3 institutions, totaling about \$180 billion, which keeps us kind  
4 of busy.

5 A few brief observations from my nearly three  
6 years in office. First of all, we tried to adopt a  
7 business-like philosophy. We manage DFI in a business-like  
8 manner, and by that I mean streamlining our operations and  
9 reducing our regulatory burden on licensees. We have worked to  
10 re-engineer our operations and to implement cost saving  
11 technologies.

12 DFI is on track to be Year 2000 compliant by  
13 December, 1998, the end of this year.

14 Concerning regulatory reform, DFI has amended a  
15 substantial number of its statutes and regulations to remove the  
16 unnecessary and costly provisions. At the same time, we are  
17 maintaining the safety and soundness of our licensees. This  
18 enabled our licensees spend more resources focusing on providing  
19 financial products to Californians.

20 On the Asia crisis, we have implemented  
21 appropriate steps to ensure the safety and soundness of these  
22 foreign banks and to monitor the effected licensees on a regular  
23 daily basis. I do expect a retrenchment of Asian banks from  
24 the United States, including our State of California. On the  
25 whole, the Asian economic crisis will probably not have much of  
26 an impact, economic impact at least, on California.

27 The condition of our licensees, generally the  
28 institutions we supervise are financially sound. The most



1 important supervisory issue facing DFI is the Year 2000 problem  
2 for our licensees. We are implementing the appropriate  
3 supervisory steps to ensure that our licensees will be Y-2K  
4 compliant.

5 At the same time, we currently supervise  
6 approximately 102 what we call problem licensees. If there is a  
7 recession or an economic downturn, many of these licensees will  
8 require supervisory action and may need to be closed or merged.

9 Lastly, what we call quality assurance surveys.  
10 Two years ago, we began our quality assurance program. After  
11 each examination, we sent a survey to the CEO to determine how  
12 well we performed. These surveys are returned to me  
13 anonymously. We have 13 questions, plus some additional  
14 information that we request, but the last question is a  
15 summation, and it goes like this: "Overall I was satisfied with  
16 the examination." We asked each CEO five different categories,  
17 do you strongly agree with that, do you agree, neither, or do  
18 you disagree, or strongly disagree.

19 The first year we had a 98 favorable response,  
20 and I'm pleased to report that this past year, we had a 70  
21 percent strongly agree with that question, and 30 percent  
22 agreed. This is total 100 percent. I'm very proud of our  
23 people for this accomplishment.

24 Some trends I see in our financial institutions  
25 here in California, the last time I appeared before you, I  
26 shared with you the principle trends that I saw then concerning  
27 California financial industries' future. These trends were  
28 basically increased competition, consolidation and mergers, and



1 the need for the application of technology. These trends did  
2 occur the past three years, and they're still in process. Many  
3 financial institutions continue to automate their back shops and  
4 delivery systems in an effort to be more competitive and to  
5 provide greater convenience at a lower price to the customers  
6 and consumers.

7 Last year, California had 30 bank mergers.  
8 Competition among financial service providers is increasing and  
9 is providing new choices to consumers.

10 This concludes my brief statement regarding the  
11 department and some major trends. Thank you again for letting  
12 me appear before you here today. I will be pleased to answer  
13 your questions.

14 SENATOR HUGHES: You talk about the consolidation  
15 of financial institutions and the fact that they will continue  
16 at a fast pace. Last year, Section 510 of the Financial Code  
17 required that the Department should consider the impact of a  
18 branch closure on public convenience, and prior regulations  
19 prohibited the closure of a state chartered bank branch if it  
20 impaired the public convenience.

21 It appears that the amended regulation would  
22 permit a state chartered bank to close a branch even if doing so  
23 would demonstrably inconvenience the branch bank's customers.

24 Is this true?

25 MR. HEWITT: No, it's not true. Most of the  
26 branch closures that have occurred and probably will occur is  
27 where you have mergers and acquisitions, and there's a  
28 duplication of branches themselves. They have to notify us.

1 They have to notify the FDIC before any branch closure can be  
2 made.

3 SENATOR HUGHES: Why did they change this in the  
4 code? I don't understand.

5 MR. HEWITT: We still have the notification  
6 process to tell us why they closed the branch and where it's  
7 located. We have the option to prohibit that closure.

8 SENATOR HUGHES: I seem to observe that unless a  
9 community made a protest, that these things went through. It's  
10 happened in several places in my district and in neighboring  
11 districts.

12 I get really concerned about weakening the  
13 ability of constituents to be able to utilize the services of  
14 institutions that have historically been in their neighborhoods,  
15 but slowly but surely, some of them are creeping back in.

16 So, what is holding up this process, and why was  
17 it done in the first place?

18 MR. HEWITT: Many of these closure of branches  
19 are national banks which we do not supervise or regulate. These  
20 are the large bank mergers which have come together, and that's  
21 under the office of the Controller of the Currency and not my  
22 office.

23 The other part to this is, we have more new banks  
24 being organized in the communities, especially the smaller  
25 communities, than we've ever had before. We normally had three  
26 or four; we probably had a dozen in the last year pending and  
27 approved new banks in this state. That's the highest number  
28 it's been in many, many years.

1                   The closure of branches, we've had a few  
2 complaints that we followed up on in communities where they felt  
3 that there was no financial system available to them. And --  
4 however, a bank would come back in and buy that branch, and keep  
5 that branch going.

6                   We had more complaints from merchants than we did  
7 consumers on these closures.

8                   SENATOR HUGHES: Is your agency supporting  
9 Senator Johnson's 1669, to remove the Department's regulation of  
10 specific business activities of banks and industrial loan  
11 companies that are currently requiring notice to or approval by  
12 your Department?

13                  MR. HEWITT: Yes, I think that's our bill. That  
14 would still leave us the option of not permitting that to happen  
15 if the community felt that they needed it.

16                  SENATOR HUGHES: This doesn't sound like it's  
17 consumer friendly. Why aren't you more consumer friendly?

18                  MR. HEWITT: I think we're very consumer  
19 friendly.

20                  SENATOR HUGHES: You can't tell it by a  
21 regulation like that. That leaves a lot of doubt in people's  
22 minds.

23                  MR. HEWITT: We still listen to the consumer.

24                  SENATOR HUGHES: If they don't have a financial  
25 institution to deal with in their community because they've gone  
26 elsewhere, you provide another hurdle that has to be jumped in  
27 the whole scheme of doing business.

28                  Is that not consumer unfriendly?



1 MR. HEWITT: No, we have investigated these,  
2 Senator, and found that there's always another financial  
3 institution available to the consumer.

4 SENATOR HUGHES: Provided that they can get  
5 there. You know, some of these people get there by walking, not  
6 by driving. And some of the places are so inaccessible,  
7 certainly to people in inner city areas, I would imagine even to  
8 people in suburban and rural areas, it presents even worse of a  
9 hardship for them.

10 MR. HEWITT: Well, I can tell you personally, my  
11 90-year-old mother drives her car 17 miles because there's not a  
12 branch in her town. She doesn't mind doing that.

13 SENATOR HUGHES: Aren't you concerned about that?

14 MR. HEWITT: No, I asked her that question, and  
15 she said, no, I enjoy getting out and going to that branch to  
16 bank.

17 She banks by mail, basically, electronic funds,  
18 and so her needs are very simple, and she doesn't have to go  
19 there every day like a merchant would.

20 SENATOR HUGHES: That's interesting.

21 Any further questions from Members? Senator  
22 Ayala.

23 SENATOR AYALA: Mr. Hewitt, SB 1669, mentioned by  
24 Senator Hughes, was that sponsored by your Department?

25 MR. HEWITT: Yes, it is.

26 SENATOR AYALA: Is it true that that is deleting  
27 the authority to order industrial loan companies to end  
28 deceptive advertising?



1 MR. HEWITT: To close what?

2 SENATOR AYALA: To order industrial loan  
3 companies to end deceptive advertising.

4 MR. HEWITT: That is the only place in the  
5 Financial Code law that it's that way. We can cover that  
6 through our examination process if there is a complaint or  
7 deceptive, and we do that on the banking side. That's the only  
8 place of any financial institution that has that particular type  
9 of deceptive advertising code, and we feel we can cover that.  
10 We have covered it through our examination or cease and desist  
11 orders.

12 SENATOR AYALA: Do you have on-site ongoing  
13 oversight in these things?

14 MR. HEWITT: Yes, we do.

15 SENATOR AYALA: So that advertising --

16 MR. HEWITT: And it comes right back from the  
17 consumer.

18 SENATOR AYALA: So, you feel that this is not  
19 necessary?

20 MR. HEWITT: That's correct. We feel we have  
21 enough other enforcement authority to do it, and we have done  
22 it.

23 SENATOR HUGHES: Where we are in the process is  
24 that I asked some questions, Senator Ayala asked some questions,  
25 and we have not heard from witnesses.

26 CHAIRMAN BURTON: It seems like in speaking  
27 appearances to interest groups, you tell them they should be  
28 putting more money in the political process to obtain favorable

1 results and things like that. Are you speaking for the  
2 Governor?

3 MR. HEWITT: No, I'm not.

4 CHAIRMAN BURTON: But you are a Governor's  
5 appointee. You're saying it, and I assume when you say that,  
6 they don't think you're telling them to give money to Gray  
7 Davis; right?

8 MR. HEWITT: This was -- that's a handout I use  
9 to help the financial institutions to become better financial  
10 institutions.

11 CHAIRMAN BURTON: How do you become a better  
12 financial institution by making political contributions?

13 MR. HEWITT: The regulated ones. When I came  
14 aboard, there were a lot of complaints about unregulated  
15 financial institutions like GE Capitol, and the mutual funds,  
16 and the insurance companies, and so forth, that do not have  
17 regulations in law. Some of them are not taxed, such as credit  
18 unions, and why can't we do that. I said, well, that's up to  
19 you. You have to get involved in the legislative process if you  
20 want to make that change; that's up to you.

21 CHAIRMAN BURTON: So, in effect, it's you, as the  
22 person in charge, telling them that they have to contribute  
23 money to influence the outcome of legislation. That's what it  
24 looks like here. "Need to put more time, personnel and money  
25 into the political process. Financial institutions need  
26 favorable legislation."

27 MR. HEWITT: If they want to have their own  
28 legislation, I think that's what it takes to do it.

1 CHAIRMAN BURTON: They can't get legislation -- I  
2 mean, in other words, we're all familiar with the process, I  
3 just think it's kind of unseemly.

4 MR. HEWITT: Well, when I got the complaints from  
5 them to do it, I said, well, I think your answer to that is to  
6 go out and do it yourself, quite frankly.

7 CHAIRMAN BURTON: I just think it's kind of --

8 MR. HEWITT: It's just a handout. I hand it to  
9 them and say, here are some things --

10 CHAIRMAN BURTON: Yes, it's a handout telling  
11 them that if you give money, you'll get favorable political  
12 legislation.

13 MR. HEWITT: No, it's not just money. It's their  
14 time.

15 CHAIRMAN BURTON: Time, personnel, and money.

16 MR. HEWITT: If they want to do it.

17 CHAIRMAN BURTON: It's rather unseemly. It's  
18 unseemly. I mean, these days you hope it's only unseemly.

19 Where are you on the so-called credit union  
20 issue? Or do you have a position on it?

21 MR. HEWITT: No, we don't take a position on it  
22 because we have banks and credit unions and so forth.

23 CHAIRMAN BURTON: What do you think is the  
24 equitable, fair thing?

25 MR. HEWITT: I don't know. It's been going on  
26 for many, many years in its current situation of -- there is a  
27 need for credit unions, especially in the smaller rural  
28 communities where banks generally will not go into. Some credit

1 unions are very large.

2 I think Congress will probably have to decide  
3 what the issue there is, whether there should be a common bond  
4 membership, whether there should be taxation to credit unions.

5 I don't have any position on them.

6 CHAIRMAN BURTON: Do you have any thoughts on it?

7 MR. HEWITT: No. I think the system has gone on  
8 well as it has in the past. I'd say leave it alone.

9 CHAIRMAN BURTON: But it ain't left alone because  
10 now the Supreme Court's spoken, so it won't be as it was in the  
11 past.

12 MR. HEWITT: That's true at the federally  
13 chartered credit unions. The state chartered credit unions,  
14 they do have -- most states can issue so-called multiple common  
15 bonds memberships under their laws.

16 CHAIRMAN BURTON: Members of the Committee? Did  
17 you get into bank closures?

18 SENATOR HUGHES: Yes, sir. My first question.

19 CHAIRMAN BURTON: Were you pleased with the  
20 answer?

21 SENATOR HUGHES: No, sir.

22 CHAIRMAN BURTON: What is your position on  
23 Senator Johnson's 1669?

24 SENATOR HUGHES: They support it. That's their  
25 legislation.

26 CHAIRMAN BURTON: That's your bill.

27 MR. HEWITT: Correct. We believe that we have  
28 the enforcement power to stop any closure that needs to be



1 stopped.

2 CHAIRMAN BURTON: It's just like notice.

3 MR. HEWITT: It's a notice, but we have the power  
4 and enforcement power to stop it, even though it's a notice.

5 CHAIRMAN BURTON: It ends the notice requirement.

6 MR. HEWITT: Yes.

7 CHAIRMAN BURTON: Why would you want to do that?

8 MR. HEWITT: Because we want to know -- we have  
9 to know if we ever close that bank or that financial  
10 institution, does that branch still exist and so forth.

11 CHAIRMAN BURTON: Maybe I'm mistaken, or someone  
12 else is mistaken, but it says that the measure would end the  
13 Department's authority over various specific business activities  
14 of banks and industrial loan companies, including requirements  
15 for notice of closure.

16 MR. HEWITT: No, we still have -- we have to have  
17 -- there's something wrong there. We still have to have the  
18 requirement on the notice of closure. I'll double-check that  
19 for sure. We want it, and we need it.

20 CHAIRMAN BURTON: Why would you want to delete  
21 the authority to stop loan companies from ending deceptive  
22 advertising?

23 MR. HEWITT: That was a question that was asked  
24 before, because all the other financial institutions do not have  
25 that particular law, and we still have the enforcement power  
26 from the consumer complaint side to do that and we can stop it.

27 CHAIRMAN BURTON: Then why don't we extend it to  
28 the other institutions instead of taking it away from the one

1 that's got them? Why would you not want to be able to stop  
2 people from lying about their product?

3 MR. HEWITT: We have not had that situation with  
4 the other financial institutions.

5 CHAIRMAN BURTON: How do you know?

6 MR. HEWITT: We have a complaint system.

7 CHAIRMAN BURTON: Nobody's ever complained about  
8 bogus advertising?

9 MR. HEWITT: No, they have not. There are  
10 complaints about opening their accounts, having holds on their  
11 checks and those types, but not against the -- not on the  
12 deceptive advertising. We have not had that complaint.

13 CHAIRMAN BURTON: Why would the bill reduce the  
14 scope of existing requirements? That's been asked, too.

15 Has all the stuff been asked about the industrial  
16 loan business?

17 SENATOR HUGHES: No.

18 CHAIRMAN BURTON: In other words, schedule charge  
19 at the office provides statements in terms of borrowers for  
20 loans under ten thousand; this bill would limit the requirement  
21 to loans under five thousand.

22 If it's important to somebody at five grand, why  
23 is it not important at ten?

24 MR. HEWITT: We'll probably just leave it at ten  
25 thousand.

26 CHAIRMAN BURTON: You put the bill in at five.  
27 You sluff this stuff off like it's a nothing.

28 MR. HEWITT: No, it's not a nothing, but we feel

1 that maybe it should be ten after we've heard some complaints  
2 about it.

3 CHAIRMAN BURTON: But it tells me what your mind  
4 set is, I guess, or not.

5 How about the fact that the industrial loan  
6 companies submit request and plans before getting into the home  
7 equity business? You don't think they ought to have to do that?

8 MR. HEWITT: That would be the only financial  
9 institution that would have that. It would be a dis --

10 CHAIRMAN BURTON: What were industrial loan  
11 companies set up to do?

12 MR. HEWITT: They were set up to perform the same  
13 functions as a bank --

14 CHAIRMAN BURTON: For industrial loans.

15 MR. HEWITT: Basically, and that's what they're  
16 doing today.

17 CHAIRMAN BURTON: Industrial loans, that's why  
18 they call them industrial loan companies.

19 MR. HEWITT: They're providing a lot of consumer  
20 loans today. They have changed, and they're providing a lot of  
21 car loans, used cars and new car loans.

22 The name industrial loan really doesn't pertain  
23 to them as much as it was at the time many years ago this was  
24 written.

25 CHAIRMAN BURTON: Questions, Members of the  
26 Committee.

27 Witnesses in support, anybody here from the  
28 industrial loan companies?



1 MR. LEVY: Ed Levy, representing the Western  
2 League of Savings Institutions, which is the savings and loan  
3 industry.

4 While there are only few state chartered savings  
5 and loans remaining in California, we found working with Con  
6 Hewitt over the last couple of years since the DFI was created  
7 and he became the regulator, and during the process when that  
8 consolidation bill was going through, to be a man that we've  
9 really found very, very good to work with. He's very  
10 knowledgeable of not only our industry but the competing  
11 industries and solicitous of our opinions on the issues that  
12 come before him.

13 CHAIRMAN BURTON: He solicits your opinion?

14 MR. LEVY: Solicitous of our opinions.

15 CHAIRMAN BURTON: He solicits opinions from you  
16 on how he should deal with you? I'd like him, too.

17 MR. LEVY: Well, we give him opinions on things  
18 that he doesn't ask us about. I mean, there are issues that  
19 come up, and they need discussion and resolution.

20 But we've found him to be an extremely  
21 knowledgeable gentleman, and one we've been very pleased to work  
22 with.

23 CHAIRMAN BURTON: Thank you.

24 Next, please.

25 MR. NOACK: Thank you. I'm Russell Noack, on  
26 behalf of the California Association of Thrift and Loan  
27 Companies, also known as industrial loan companies.

28 I'm very happy to answer any questions that you



1 may have.

2 I think, again, it's the Department's bill. As  
3 Mr. Levy indicated, the Department of Financial Institutions has  
4 gone a long way to try and maintain a competitive marketplace.  
5 And industrial loan companies number approximately 25 of an  
6 asset base of around five to six billion dollars. We're  
7 approximately three to four percent of the entire financial  
8 institution environment in California, but a very important  
9 part. One that serves areas not often served. Some noteworthy  
10 ones in the Bay Area, First Republic; in Southern California,  
11 the largest financial institution in East L.A. is Community, and  
12 that's a very vibrant and important aspect.

13 CHAIRMAN BURTON: You took over the thrifts?

14 MR. NOACK: Yeah. No, the thrift and loan  
15 companies, the law is called Industrial Loan Law. They've  
16 always been known as thrift and loan companies.

17 CHAIRMAN BURTON: They would be the old ten  
18 percenters?

19 MR. NOACK: Yeah, back in the --

20 CHAIRMAN BURTON: Used to do pretty good without  
21 any regulation, as I recall.

22 MR. NOACK: Back, back prior to becoming FDIC and  
23 all of the other panoply of financial institutions. We're  
24 federally regulated, just like our friends from the banks.

25 The basic differences, Senator, is that  
26 industrial loan companies don't have demand accounts, don't  
27 offer checking accounts.

28 The Industrial Loan Law, that, interestingly,

1 came from 1917, and it came from industrial worker. This was  
2 the industry that really --

3 CHAIRMAN BURTON: The IWW?

4 MR. NOACK: Well, not so much. We had that  
5 conversation once in Judiciary Committee a few years ago. But  
6 more the blue-collar workers who really, at that time, if they  
7 are unable to get anything from a bank or an S&L, the industrial  
8 loan company was the sort of institution of choice.

9 And with respect to many of the provisions that  
10 are in the Senator Johnson bill, and I'm not going to speak for  
11 the sponsor, but we are negotiating. We, on behalf of the  
12 industry, have a number of issues which we are negotiating at  
13 present with the Department and with various consumer groups as  
14 the consumer groups negotiate with the Department.

15 Many of those -- all of those provisions that you  
16 mentioned, in our view, are covered, are redundant, are covered  
17 under both federal and state law, unfair business practices, et  
18 cetera. And, quite honestly, they can remain in the law or be  
19 taken out.

20 CHAIRMAN BURTON: With respect, you people come  
21 up with a bill, any industry, and they want a bill to do  
22 something, that doesn't bother me. That's what you do.

23 When the watchdogs do it, it offends me.

24 I mean, as far as I'm concerned, anybody can try  
25 to push the envelope as far as they can. It's kind of the  
26 watchdog's thing, you know, not to let that happen. That's just  
27 my concern.

28 MR. NOACK: Senator, with all due respect, the

1 provisions that the Department has looked at, one of the values  
2 of what all of you did in consolidating basically the four  
3 depository financial institutions under one regulator is, you  
4 gave the regulator the ability to look at all four laws and note  
5 inconsistencies and try and modernize and simplify the system.

6 CHAIRMAN BURTON: But see, we view it from a  
7 different point of view. I would look at it from trying to --  
8 and this is painting with a broad brush -- if you see one with,  
9 quote, "weak" regulation and one with strong, I would try to get  
10 the weak ones up to the strong, not the strong ones back with  
11 the weak. If I was in the business, I'd probably be looking at  
12 it the other way.

13 MR. HEWITT: And that's a good point,  
14 Mr. Chairman, because on the industrial loan side, we really had  
15 no enforcement powers. And we are adding enforcement powers in  
16 this bill.

17 We're taking the best practices of both --  
18 enabling the institutions to remain competitive, but those  
19 institutions who are not regulated, and they have a lot of  
20 competition if it's not regulated.

21 CHAIRMAN BURTON: Next witness in support.

22 SENATOR AYALA: I was going to inquire, the more  
23 I think and hear about SB 1669, I don't know why you really need  
24 it. Is it going to enforce your regulatory powers, delete some  
25 of the --

26 MR. HEWITT: It's going to delete some of the  
27 redundant, but it's going to give us a lot more enforcement  
28 power that we presently don't have and we need.



1 MR. NOACK: Senator, on behalf of the industry,  
2 the industry views the bill as certainly modernizing and  
3 simplifying. Those are wonderful words.

4 But we also view it as much stronger and more  
5 effective and efficient regulatory control over the industry.

6 We do not in any way view it as watering down  
7 the law in any respect.

8 CHAIRMAN BURTON: I don't know what it does. It  
9 affects a whole page of code sections.

10 MR. NOACK: One hundred fifty-five pages.

11 SENATOR AYALA: A few minutes ago, Senator Hughes  
12 indicated that this wasn't consumer friendly.

13 MR. NOACK: Again, I respectfully disagree with  
14 the Senator.

15 We view the efforts of the Department with the  
16 notion of the bill. I believe that the bill is intended to be  
17 extremely consumer friendly.

18 I appreciate it, because I've been in contact  
19 with some of the groups that have raised some concerns, and  
20 there are some needs to do substantial amendments in the bill  
21 that I think the sponsor recognizes, and certainly it's been  
22 brought to our attention.

23 CHAIRMAN BURTON: I don't want to beat a dead  
24 horse, but I would think that if you're the head of a  
25 department, you'd figure that out before you went in.

26 Next witness in support.

27 MR. NOACK: Thank you.

28 MR. WILHELM: Mr. Chairman, Members, Greg



1 Wilhelm, California Bankers Association.

2 It's a privilege to be here to urge your  
3 confirmation of Con Hewitt as Commissioner of Financial  
4 Institutions.

5 Our Executive Director has already written the  
6 Committee at the urging of our board for the same purpose.

7 I would just like to emphasize that our  
8 experience under the new Department of Financial Institutions is  
9 very similar to the experience we had when we reported to the  
10 State Banking Department. The treatment of our state chartered  
11 banks, all 212 of them as of last count, is that they get  
12 extremely fair, firm, thorough treatment. The Department's very  
13 responsive.

14 I think most importantly, the Department's very  
15 efficient. If you talk to the state chartered banks, and they  
16 all talk to their national bank colleagues, the quality of  
17 regulation they get for their dollar relative to what the  
18 national banks get charged by the OCC is considered to be a  
19 regulatory bargain. They get a lot of individualized treatment  
20 without an awful lot of the bureaucracy.

21 Indeed, most of the deregulation modernization  
22 that's going on in the codes that affect commercial banks over  
23 the last couple of years at the urging of Department has really  
24 been to eliminate the forms and focus on the substance. I  
25 think it's been very successful.

26 I'll just make one last comment, because I know  
27 Senator Hughes and others of you who are interested in the  
28 branch closing issue, there's an aspect to this that is not

1 present in 1669 that you should be aware of.

2 The whole examination of commercial banks, S&Ls,  
3 and industrial loan companies under the Federal Community  
4 Reinvestment Act requires a very thorough analysis of the impact  
5 on the community, what the bank doing to ameliorate that  
6 impact, or to provide substitute services. And failure to  
7 address that could have fairly severe consequences for  
8 commercial banks.

9 So, there is a regulatory process in place to  
10 make sure that branch closings are not treated lightly.

11 Thank you.

12 CHAIRMAN BURTON: I'll tell you what we'll do  
13 because we have a short committee.

14 Any opposition here?

15 Is that we will put the matter over until we get  
16 a full committee. So, thank you, sir.

17 MR. HEWITT: Thank you.

18 [Thereupon this portion of the  
19 Senate Rules Committee hearing was  
20 terminated at approximately 3:21 P.M.]

21 --ooOoo--  
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

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SENATOR TERESA HUGHES

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JOSH LOWERY, Consultant to SENATOR KNIGHT

ALSO PRESENT

DONALD A. JACKSON, Member  
Public Employment Relations Board

SENATOR KEN MADDY



INDEX

Page

Proceedings ..... 1

Governor's Appointees:

DONALD A. JACKSON, Member  
Public Employment Relations Board ..... 1

    Introduction and Support by  
    SENATOR KEN MADDY ..... 1

    Background and Experience ..... 1

    Motion to Confirm ..... 2

    Committee Action ..... 3

Termination of Proceedings ..... 3

Certificate of Reporter ..... 4





P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Senator Knight and Burton are present. Senator Maddy is here to present.

SENATOR MADDY: Mr. Chairman at Members, Don Jackson, who's a long, long time personal friend and former colleague of mine in the law business.

The main thing I want to point out is that Don is not a stranger to the Senate. Some years ago, when Mr. Lockyer took over, I was leader at that point in time and had Don appointed to a special committee that worked with the Senate in terms of looking at salary comparisons and a number of other things, and has been performing some service to the Senate.

He is now, as a result of some minor medical difficulties, could not continue the active law practice and is working on a state appointment, and is doing an excellent job, I understand, from everybody that I've talked to.

So, I would strongly urge his confirmation.

CHAIRMAN BURTON: Mr. Jackson.

MR. JACKSON: Senator, thank you for having me here today.

Just a very brief statement. I have been with the PERB Board for about eight months. My previous background was in the practice of law, private practice for 35 years. Most of that practice was centered around a specialization in tax law. That specialization led me to doing bond work for school districts, and that practice led me to doing general work for school districts, which gave me some familiarity with the public



1 sector and labor practices.

2 I have enjoyed the past eight months. I feel  
3 that it's been an interesting experience for me because most of  
4 the other members have come from the public sector, but I find  
5 that everyone seems to take these matters very seriously and  
6 judiciously, and we take what I think is a very reasonable  
7 approach, and studied approach, in reaching a decision.

8 So, I hope that you will give me consideration  
9 and confirm me.

10 CHAIRMAN BURTON: Does the name P. J. Camarotta  
11 mean anything to you?

12 MR. JACKSON: Yes, it does.

13 CHAIRMAN BURTON: That's good enough for me.

14 MR. JACKSON: But I would point out that he was  
15 another one of those elected local officials that never quite  
16 made it to the state level.

17 CHAIRMAN BURTON: We know one, but he was "No!"

18 SENATOR MADDY: The iron fist.

19 CHAIRMAN BURTON: And he had the iron head to go  
20 with it.

21 Any questions, Members of the Committee? Senator  
22 Ayala?

23 SENATOR AYALA: No questions.

24 SENATOR KNIGHT: Move.

25 CHAIRMAN BURTON: Moved by Senator Knight. Call  
26 the roll.

27 SECRETARY WEBB: Senator Ayala.

28 SENATOR AYALA: Aye.





1 SECRETARY WEBB: Ayala Aye.

2 SECRETARY WEBB: Senator Hughes. Senator Knight.

3 SENATOR KNIGHT: Aye.

4 SECRETARY WEBB: Knight Aye. Senator Lewis.

5 Senator Burton.

6 CHAIRMAN BURTON: Aye. The roll will be left  
7 open.

8 SENATOR MADDY: Thank you.

9 MR. JACKSON: Thank you very much.

10 SECRETARY WEBB: Senator Lewis is Aye.

11 [Thereafter, SENATOR HUGHES

12 added her Aye vote, making the

13 final vote 5-0 for confirmation.]

14 [Thereupon this portion of the

15 Senate Rules Committee hearing was

16 terminated at approximately 1:35 P.M.]

17 --ooOoo--



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ALSO PRESENT

PHILLIP J. FORHAN, Member  
Board of Governors  
California Community Colleges

SENATOR JIM COSTA

MARK J. DE SAULNIER, Member  
State Air Resources Board





INDEXPage

Proceedings .....	1
<u>Governor's Appointees:</u>	
PHILLIP J. FORHAN, Member Board of Governors California Community Colleges .....	1
Introduction and Support by SENATOR JIM COSTA .....	1
Background and Experience .....	3
Questions by CHAIRMAN BURTON re:	
How Community Colleges Can Adjust to Meet Requirements of Federal Law under Welfare Reform .....	4
Relay Legislature's Expectation to Board and Administration on Making Welfare Reform Work and Make Recommendations to Legislature if Changes are Needed .....	5
Questions by SENATOR AYALA re:	
Student Fees .....	5
Exorbitant Parking Fees .....	6
Questions by CHAIRMAN BURTON re:	
Board's Ability to Enact Policy to Discourage Local Districts from Requiring High Parking Fees .....	7
Motion to Confirm .....	8
Committee Action .....	9
MARK J. DE SAULNIER, Member California Air Resources Board .....	9
Background and Experience .....	9
Questions by CHAIRMAN BURTON re:	
Viewpoint on MTBE Controversy .....	11



1	Disproportionate Effects of Pollution	
2	and Environmental Hazards on Low-Income	
3	Communities .....	12
4	Motion to Confirm .....	13
5	Committee Action .....	14
6	Termination of Proceedings .....	14
7	Certificate of Reporter .....	15





P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Senator Costa, why don't you start with your introduction of your constituent. This is Governor's appointee Phillip J. Forhan, member of the Board of Governors, Community Colleges.

SENATOR COSTA: Correct, Mr. Chairman and Members of the Senate Rules Committee.

I have the distinct honor this afternoon of presenting to the Members of Senate Rules Committee Mr. Forhan who is up for confirmation for the Governor's appointment to the Board of Governors to the State Community Colleges.

I've known Mr. Forhan for many years. He has himself worked very hard on behalf of the people in the greater Central Valley in a number of various endeavors, but since 1991, Mr. Forhan has served as an elected member on the State Community College Board.

State Center is one of the larger community colleges in California, with a very large enrollment, with two primary campuses, and two extended campuses now in other parts of the four-county area that it serves. And they have done, I think, a very good job in attempting to address the challenges and changes that have occurred in community colleges in this decade.

He was in the last year appointed by the Governor to the Board for state Community Colleges. I think it's an appropriate appointment given his background and experience as a member of the State Center, and would very much encourage each



1 and every one of you to listen closely to his comments, his  
2 testimony. I think he will make a good appointment, not only to  
3 the State Board, but also giving a representative perspective of  
4 the community colleges in the greater Central Valley.

5 We have many community colleges. They vary in  
6 sizes from West Hills Community College and Taft Community  
7 College that are smaller and serve broad rural areas, and then  
8 the larger community colleges like Bakersfield College and State  
9 Center represent urban areas. So, we have, I think, a very  
10 diverse mixture of community colleges in the Valley, just like  
11 the state, and I think he'll do a good job.

12 I urge your confirmation.

13 CHAIRMAN BURTON: Thank you very much, Senator.

14 MR. FORHAN: Thank you Senator Burton and Members  
15 of the Committee.

16 CHAIRMAN BURTON: Did you ever work with Chuck  
17 Dickson?

18 MR. FORHAN: No. Is that good or bad?

19 CHAIRMAN BURTON: I thought he was working Fresno  
20 about the time you were in the City Manager's Office, then he  
21 was up here as Director of Finance for a while under Reagon.

22 MR. FORHAN: That's going back a ways.

23 CHAIRMAN BURTON: That's all right. Neither good  
24 nor bad. Just letting you know I've got a deep history in the  
25 Valley.

26 MR. FORHAN: You certainly do. That's great.

27 SENATOR COSTA: Conversations that the Chairman  
28 and I have on occasion. We're both history buffs.





1                   CHAIRMAN BURTON: He might have been with the  
2 county then.

3                   Go ahead.

4                   MR. FORHAN: It's a pleasure to be here. It's a  
5 great honor to serve on the Board of Governors for the State of  
6 California.

7                   As you know, the California community colleges  
8 have been a leader in the nation in terms of providing education  
9 for the folks who need it the most.

10                  In terms of size, we represent -- 26 percent of  
11 all community colleges students attend the California community  
12 college system. I think that we have done a tremendous service  
13 for the community, not only -- as you know, our mission is not  
14 only academic, but it's transfer, vocational training, and also  
15 with welfare reform, now we certainly have -- our plate is full,  
16 but the opportunity is there to really serve the students and to  
17 make a difference in California.

18                  One of the things that I have learned, it's a  
19 cliché but very true, that the community colleges can change  
20 peoples' lives. I think when we look at what we're doing in  
21 terms of transfer rates at both the UC system and the CSU, we're  
22 doing a fine job and it's improving. But given the limited  
23 constraints that we have, I think that we're doing as best that  
24 we can. Funding, of course, is critical to our system, but I  
25 think cost effectiveness to the taxpayers, that we're doing a  
26 good job in providing that service for a broad spectrum of the  
27 community.

28                  CHAIRMAN BURTON: I have a couple questions, sir,



1 and you may or may not be prepared to answer them.

2 Under the new federal welfare reform, the amount  
3 of time for people being in voc. training courses, they're  
4 limited to twelve months, but most of the certified community  
5 college voc. ed. programs are two years.

6 Do you have any idea on how the community  
7 colleges can adjust to meet the requirements of the federal law  
8 for the needs of welfare recipients?

9 It tells you how intelligent Congress was when  
10 they did this. They didn't figure out what it took to really  
11 get a certified voc. ed. degree.

12 MR. FORHAN: I mentioned a moment ago that 26  
13 percent of all community college students are in California.  
14 Unfortunately, I don't think Washington recognizes that. We  
15 have been slighted in more than simply welfare reform in terms  
16 of what our needs are.

17 For example, the Hope Scholarship simply misses  
18 the cost effectiveness that would provide for our students that  
19 are not benefitting.

20 Back to the question in terms of welfare reform,  
21 it's necessary for us to change some of our programs. For  
22 example, at State Center, we have open enrollment. Like, every  
23 Monday you can go for vocational training jobs, for open  
24 entrance into the program. And if you continue through that  
25 program, you will have a job at the end of the program.

26 Those are the kinds of things, the flexibility  
27 and innovation that we need to provide for all the system, that  
28 some of the constraints and mentalities that existed in the past





1 won't allow us to continue because of the mandate of the federal  
2 requirements.

3 For example, at State Center now, almost 20  
4 percent of our student body's on public assistance. I think,  
5 again, the impact that's going to have on our jurisdiction is  
6 going to be dramatic. And it may be important that we go back  
7 and revisit that issue, that federal legislation.

8 CHAIRMAN BURTON: I think also a great either  
9 burden or opportunity, or both, will be placed on the community  
10 college system as the place where most of the job training is  
11 going to be taking place. And whether it should have really  
12 been all laid on you or not is another question.

13 But I think it would be very important for you to  
14 relay not only to the Board but to the administrators that we  
15 really expect them, one, to figure out how to make this work  
16 under the existing rules. And two, whatever recommendations  
17 they may have, that they either come to us or go to the feds to  
18 try to get a change.

19 Any other questions, Members of the Committee.

20 SENATOR AYALA: I've always been concerned with  
21 student fees. I understand they haven't been raised in the last  
22 two or three years; is that correct?

23 MR. FORHAN: They haven't been raised. In fact,  
24 just this year they're down from 13 to 12, so it's a reduction.  
25 We are benefitting from the Governor's --

26 SENATOR AYALA: It went from 14 to 12?

27 MR. FORHAN: Thirteen to twelve. That doesn't  
28 seem like a lot of money, but when you add it up for some folks



1 that don't have a lot of money to begin with, it makes a  
2 difference. Everything we can do to facilitate the open  
3 enrollment, to get that access to the students, we need to do,  
4 and that dollar makes a difference.

5 I'd like to see it lower. In '84 was the first  
6 time they created the actual tuition for the community colleges,  
7 and I think that was unfortunate but a necessity at the time.

8 SENATOR AYALA: I have a number of community  
9 colleges in my district. I get a number of letters regarding  
10 parking for their cars. At Mt. SAC, for instance, they charge  
11 you parking even though you go to school on a bike. You've got  
12 to pay those fees.

13 Do you folks have any control over that at all?

14 Over at Sacramento Community College over here,  
15 they used to park at random. Now they have meters. So,  
16 students have a problem, you know, meeting those financial  
17 demands sometimes.

18 They're trying to make it so that everybody can  
19 participate, especially at the community college level, as  
20 opposed to a four-year college, so why do we have these hurdles  
21 thrown in front of the students?

22 MR. FORHAN: Senator, part of the strength of the  
23 community college is the local jurisdictions. And the state  
24 requires that we separate that parking money to be used only for  
25 parking. But in terms of actually putting a fee on bicycles,  
26 that would be a local decision.

27 I think that would be unfortunate, because I  
28 totally agree that there are --





1                   SENATOR AYALA: All local control.

2                   MR. FORHAN: Absolutely. Yes, it's sort of a  
3 federation that gets it strength both at the state level and  
4 also the strength of locally elected, local jurisdiction.

5                   SENATOR AYALA: Isn't it strange for someone to  
6 charge you for something you have no use for? I know a number  
7 of people go to school on their bicycles, but when they are  
8 admitted to a junior college, they are charged a fee along with  
9 the student body ticket. They pay for something they never use.

10                  That's not under your jurisdiction, I understand.

11                  MR. FORHAN: Right. But our district, in fact,  
12 being a local district, we encourage the bicycles, and there  
13 certainly is no fee. And we've gone out and provided that there  
14 is attachments for the buses, so the kids can come on the bus  
15 and ride their bikes and have a place to park. So, that's a  
16 local decision.

17                  SENATOR AYALA: I don't have any more questions,  
18 Mr. Chairman.

19                  CHAIRMAN BURTON: Could not the Board at least  
20 send out, I guess you couldn't have a binding policy, but some  
21 kind of policy just encouraging them or discouraging them from  
22 the type of situation Senator Ayala was talking about?

23                  MR. FORHAN: You try to recognize the integrity  
24 of the local district. But something -- I mean, if other  
25 districts were doing that, that's a pattern, may be using the  
26 money for something else, because parking is very expensive.  
27 Simply a parking stall in a structure is over ten thousand  
28 dollars. That's a lot of money for the district to generate.



1                   CHAIRMAN BURTON: But they're generating it from  
2 people who don't use it.

3                   MR. FORHAN: Right. To me, that seems  
4 inappropriate.

5                   CHAIRMAN BURTON: Maybe O'Connell's committee  
6 could look at that, Senator Ayala.

7                   But, you know, we try to limit fees, but then if  
8 they can back-door them in on something else, you reduce, you  
9 know, one dollar a unit, so for ten units, they save ten bucks,  
10 and it's picked up on the other side, charging them for  
11 something they don't use. It gets back in. I know that's not  
12 your thing.

13                   Senator Knight, any questions?

14                   SENATOR KNIGHT: No questions, Mr. Chairman.  
15 Move.

16                   CHAIRMAN BURTON: Any opposition? Moved by  
17 Senator Knight. Call the roll, and we'll leave the roll open.

18                   SECRETARY WEBB: Senator Ayala.

19                   SENATOR AYALA: Aye.

20                   SECRETARY WEBB: Ayala Aye.

21                   SECRETARY WEBB: Senator Knight.

22                   SENATOR KNIGHT: Aye.

23                   SECRETARY WEBB: Knight Aye.

24                   SECRETARY WEBB: Senator Burton.

25                   CHAIRMAN BURTON: Aye.

26                   SECRETARY WEBB: Burton Aye.

27                   CHAIRMAN BURTON: Roll will be held open. Thank  
28 you and congratulations.





1                   SENATOR COSTA: Thank you very much, Members of  
2 the Committee.

3                   [Thereafter, SENATOR LEWIS and  
4                   SENATOR HUGHES added their Aye  
5                   votes, making the final vote 5-0  
6                   for confirmation.]

7                   CHAIRMAN BURTON: Next is Mark De Saulnier, State  
8 Air Resources Board.

9                   MR. DE SAULNIER: Good afternoon. Welcome back.  
10 I have a few comments while you get organized or more  
11 organized.

12                   My name is Mark De Saulnier, for the record. I'm  
13 a member of the Contra Costa Board of Supervisors, and I have  
14 been nominated for appointment to the Air Resources Board to be  
15 the representative from the Bay Area Air Quality District.

16                   I will confess to you that I am not a native  
17 Californian. I was born and raised in Massachusetts. I was the  
18 son of a State Senator there. I came west to visit, and I ended  
19 up staying.

20                   I've been a small business owner. I've owned  
21 restaurants.

22                   CHAIRMAN BURTON: You own the Santa Fe?

23                   MR. DE SAULNIER: I did in the early '80s, Mr.  
24 Chairman, with Jeremiah Tower and Doyle Moon, from 1980 to '83.  
25 That restaurant was in Berkeley.

26                   CHAIRMAN BURTON: I know where it was. I ate  
27 there.

28                   MR. DE SAULNIER: Did you enjoy it?



1 CHAIRMAN BURTON: It was all right. Once we  
2 finally got seated it was all right.

3 MR. DE SAULNIER: It must have been after I left,  
4 Senator.

5 CHAIRMAN BURTON: You were doing a land office  
6 business then.

7 MR. DE SAULNIER: Yes, we were.

8 In addition to the Santa Fe, I've owned a  
9 restaurant called TR's Bar and Grill in Concord for just about  
10 20 years. It's named after Teddy Roosevelt who is a political  
11 hero of mine.

12 In that role, I became involved in local civic  
13 matters. I served on the City of Concord's Planning Commission.  
14 Was elected to its City Council. Served as its Mayor, and then  
15 was appointed by the Governor to serve out a vacancy on the  
16 Contra Costa County Board of Supervisors. I was elected to my  
17 own term in 1994. I'm currently up for office, and I'm running  
18 unopposed, which is a nice thing.

19 In that role, some of you may know that Contra  
20 Costa County has four of the five oil refineries in Northern  
21 California, so we interact with the oil industry a great deal.  
22 I deal quite frequently with labor organizations, environmental  
23 organizations, and management at all four of those refineries,  
24 trying to ensure that the refineries act responsibly to my  
25 constituents outside the fence line, and to interact with both  
26 environmental groups and other stakeholders who have a vested  
27 interest in what happens inside the fence lines.

28 Also, I am the County Board's representative not





1 just to the Air Quality District, but also the Metropolitan  
2 Transportation Commission, and the Association of Bay Area  
3 Governments Executive Board. In that role, I have started  
4 something called the Inter-regional Partnership, which is a  
5 partnership between Contra Costa County, Alameda County, Santa  
6 Clara County, San Joaquin and Stanislaus County to look at areas  
7 of mutual interest in regards to quality of life issues, and  
8 obviously in particular, air quality.

9 So, in those ways, I think that I've been able to  
10 contribute both to my local county, to the region, and I'm now  
11 seeking to contribute at the state level.

12 In the past five months, six months that I've  
13 been to the Air Resources Board, it's been largely a learning  
14 period for me, but very rewarding so far. And as the year  
15 starts to heat up, so to speak, we have many more challenging  
16 issues on our agenda between now and the end of the year.

17 With that, I'll entertain any questions you may  
18 have of me, Senator Burton or Committee Members.

19 CHAIRMAN BURTON: What is your viewpoint on the  
20 MTBE controversy that, at least as I recall hearing about it,  
21 came out of some reservoirs or lakes over in Contra Costa  
22 County? Wasn't that either the water district or East Bay MUD?

23 MR. DE SAULNIER: I believe it was Contra Costa  
24 Water District had some concerns at Contra Loma.

25 MTBE, as you know, Senator Mountjoy authored a  
26 bill that was signed by the Governor last year. It requires UC  
27 to do a full study that will come back to the Air Resources  
28 Board and to the Legislature to look at the results of that



1 study to deem if there are -- what the true risks are for MTBE,  
2 and also look into if there are other potential additives that  
3 we can use in California's reformulated fuel.

4 It's been presented that it's somewhat of a  
5 trade-off between air quality and water quality, but I think  
6 during next year, we will look at how we can not just evaluate  
7 that trade-off, but how best we can have an additive that the  
8 federal government requires us to have that will continue to  
9 improve our air quality.

10 CHAIRMAN BURTON: There have been concerns over,  
11 at least in San Francisco and I know parts of Contra Costa,  
12 about the disproportionate effect of pollution and environmental  
13 hazards on basically low-income communities.

14 Has ARB been looking into that situation to see  
15 whether or not there's validity to those questions? And if so,  
16 what type of things could they be doing?

17 MR. DE SAULNIER: Prior to my being on the Board,  
18 as I think some of you know, there was a lawsuit brought by the  
19 NAACP, I believe, and CBE against the South Coast District.

20 ARB has paid for five additional monitoring  
21 sites. There are ten additional monitoring sites, the South  
22 Coast paying for the other five, I believe, to look at just that  
23 issue, whether low-income communities are impacted by that.

24 And as the Chairman knows, Contra Costa County  
25 has been impacted by our industrial belt. We had -- just two  
26 months ago, I was at a ground-breaking for a public health  
27 center in north Richmond that was paid for as a result of the  
28 General Chemical release about a decade ago. So, we certainly,





1 as you say, in the Bay Area and particularly in Contra Costa are  
2 familiar with the effects of industrial facilities in low income  
3 communities.

4 But having said that, I think CARB's ultimate  
5 role is to provide for a clean environment and the highest  
6 quality air for all Californians.

7 CHAIRMAN BURTON: Senator Ayala, any questions?

8 SENATOR AYALA: I have no questions.

9 CHAIRMAN BURTON: Any opposition in the  
10 audience?

11 Okay, we will wait for Senator Knight to come  
12 back.

13 MR. DE SAULNIER: Okay, I will be here. Thank  
14 you.

15 [Thereupon the Committee  
16 acted upon legislative  
17 agenda items.]

18 CHAIRMAN BURTON: Okay, the first order of  
19 business is Mark De Saulnier, State Air Resources Board.

20 SENATOR KNIGHT: Move.

21 CHAIRMAN BURTON: Moved by Knight; call the roll.

22 SECRETARY WEBB: Senator Ayala.

23 SENATOR AYALA: Aye.

24 SECRETARY WEBB: Ayala Aye.

25 SECRETARY WEBB: Senator Knight.

26 SENATOR KNIGHT: Aye.

27 SECRETARY WEBB: Knight Aye.

28 SECRETARY WEBB: Senator Burton.



1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye.

3 CHAIRMAN BURTON: Aye.

4 The roll will remain open.

5 [Thereafter, SENATOR LEWIS and  
6 SENATOR HUGHES added their Aye  
7 votes, making the final vote 5-0  
8 for confirmation.]

9 [Thereupon this portion of the  
10 Senate Rules Committee hearing was  
11 terminated at approximately 1:58 P.M.]

12 --ooOoo--  
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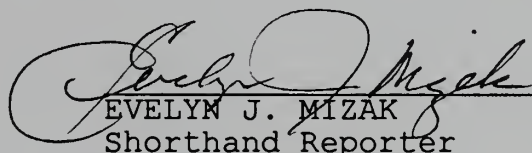
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 14<sup>th</sup> day of April, 1998.

  
EVELYN J. MIZAK  
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